



AGENDA ITEM
NO. 4

MEMORANDUM

To: **PLANNING COMMISSION**

Date: **August 8, 2006**

From: **COMMUNITY DEVELOPMENT DEPARTMENT**

Subject: **ZA-05-14/SD-05-14/DA-05-13: JARVIS – SOUTH VALLEY
DEVELOPERS**

REQUEST

The applicant is requesting approval of a development agreement, Planned Unit Development (PUD) overlay, and precise development plan for the construction of a 229-unit multi-family project referred to as Madrone Plaza. The project site is approximately 15.8 acres in size, and is located at the southeast corner of Cochrane Rd. and Monterey Rd. in an R3 zoning district. The applicant is also requesting approval to subdivide approximately 9.3 acres of the overall 15.8-acre site to create townhome and condominium lots.

RECOMMENDATION

Environmental Assessment: Recommend Council adoption of Mitigated Negative Declaration

Application, ZA-05-14: Recommend Council approval of the zoning amendment request (PUD), subject to the findings and conditions of the attached resolution

Application, SD-05-14: Approve the tentative map, subject to the findings and conditions of the attached resolution

Application, DA-05-13: Recommend Council approval of the development agreement, subject to the findings and conditions of the attached resolution

Processing Deadline: January 21, 2007

PROJECT DESCRIPTION

The proposed project, referred to as Madrone Plaza, consists of a total of 229 multi-family units. The project site is approximately 15.8 acres in size, and is located at the southeast corner of Cochrane Road and Monterey Road. Madrone Plaza will be a joint venture development between South Valley Developers and South County Housing. South Valley Developers will develop the western 9.3 acres of the project with 134 townhome and condominium units, of which five percent will be low income (7 units) and eight percent will be median income (11 units). In addition, 10 percent of the South Valley Developer units will be moderate, non-restricted units.

South County Housing will develop the east 6.5 acres with 95 townhomes and modified setback dwellings. The 95 South County Housing units will consist of 25 percent market rate units (24 units), 38 percent low income units (36 units), 32 percent median income units (30 units), and five percent moderate, non-restricted units (5 units).

BACKGROUND

In 2005, South Valley Developers was awarded 64 building allotments for the following fiscal years: 36 units for FY 2006-07; 13 units for FY 2007-08, and 15 units for FY 2008-09. South Valley Developers was also awarded an additional 15 units for FY 2009-10 as an on-going project, resulting in a total of 79 building allotments.

The following year, South County Housing was awarded 95 allotments (54 units for FY 2007-08, 41 units for FY 2008-09). Of the overall 229-unit development, only 55 additional allotments are needed to complete the project.

CASE ANALYSIS

Zoning Amendment

The project site is currently zoned R3. The applicant is requesting approval of a Planned Unit Development (PUD) overlay district and the adoption of a precise development plan for the site. The purpose of the PUD overlay district is to allow for flexibility of the City's site development standards in exchange for open space areas and affordable housing units.

As discussed under the Project Description above, the Madrone Plaza project will be providing a significant number of affordable housing units for the City of Morgan Hill. South Valley Developers will be providing up to 18 low and median below market rate (BMR) units plus 14 moderate-rate, non-restricted units. South County Housing will be providing 66 low and median BMRs and five moderate units. In addition to the affordable housing units, large open space areas with both passive and active recreational amenities will be provided, including but not limited to a clubhouse, swimming pool, basketball court, tot lots and open space turf areas.

In exchange for the amenities provided with the project, the applicant is requesting approval of the following items as part of the PUD: 1) three-story townhome and condominium buildings (up to 40 ft tall), 2) reduction in setbacks, 3) reduction in lot size/dimensions, and 4) provision of 26 modified setback dwellings in the South County Housing portion of the project.

In the R3 zoning district, the maximum allowed building height is 2 ½ stories or thirty feet. Minimum setbacks are 15 ft in the front, 20 ft in the rear, and five feet on the sides. Minimum required lot size is 6,000 sf, with a minimum site area per dwelling unit of 2,000 sf. The applicant is requesting to deviate from these standards as part of the PUD as shown on the precise development plan. Building heights will reach up to 40 feet for the three story structures; lot sizes will range from 1,220 sf to 1,897 sf in the South Valley Developers portion of the project and from 987 sf to 2,965 sf in the South County Housing portion; and setbacks will be minimal to accommodate the units on the reduced lot sizes. The increased building height, reduced setbacks and reduced lot sizes could be approved as part of the PUD.

It should be noted that Ordinance No. 1700, N.S., which extended the original ordinance allowing modified setback dwellings, states that "*Only projects for which RDCS allotments were awarded for Fiscal Year 2006-07 and earlier, and also allotments for which building permits are issued by June 30, 2007 are eligible for the modified setback dwellings, except as provided in Sections 15 through 19 of this Ordinance.*" Ordinance No. 1700, N.S. goes on to state, "*This Ordinance may be extended to allow modified setback dwellings for projects for which RDCS allotments were awarded for Fiscal Year 2007-08, and also allotments for which building permits are issued by June 30, 2008, subject to the approval of the City Council.*"

South County Housing proposes to construct 26 modified setback dwellings from their 54 FY 2007-08 allotments. In the event South County Housing is unable to pull building permits for all 26 units by June 30, 2007, the applicant will either need to physically attach the units or request that the City Council extend the provisions of Ordinance No. 1700 under separate action.

Also, one lot located within the South County Housing portion of the site is identified as a detached structure, separated from the nearest unit by approximately 20 feet. As a condition of the subdivision approval, South County Housing will need to relocate Lot 89 (a proposed modified setback lot) to be located directly adjacent to Lot 90, in order to meet the provisions of the modified setback dwelling ordinance.

Subdivision

As mentioned previously, South Valley Developers will develop the western 9.3 acres of the Madrone Plaza site. South Valley Developers has received 79 allotments of the total 134 units they will be constructing. Of these 79 units, 78 will be townhomes and one will be a condominium. At this time, South Valley Developers is requesting approval to subdivide the 9.3 acres to create the 78 townhome lots.

The townhome lots range in size from 1,220 sf to 1,897 sf. Lot dimensions vary, but are generally 22 ft in width and 57 to 59 ft in depth. The lot sizes and dimensions fall below the

minimum standards in the R3 Zoning District; however, the deviations could be approved under the requested PUD.

Development Agreement

The applicant is requesting approval of the project development agreement. Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure C process and establishes the development schedule for the project. The project specific commitments are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

Environmental Assessment

In 2004, an environmental assessment was completed for the Madrone Plaza site as part of the General Plan Amendment and Zoning Amendment applications. Due to a change in the project configuration and subsequent approvals in the project area (e.g. Cochrane Road PUD Shopping Center) that altered background conditions, an updated environmental assessment was prepared. Based on this updated environmental assessment, potential impacts to the following areas were identified: air quality, biological resources, cultural resources, geology and soils, hydrology and water quality, and noise. The potential impacts identified for four of the six categories listed (air quality, cultural resources, geology and soils, and hydrology and water quality) are impacts that are typical for similar type projects which can be mitigated through standard mitigation measures, as listed in the attached Mitigated Negative Declaration. The remaining two categories (biological resources and noise) are discussed in further detail below.

It should be noted that impacts to transportation were not identified and no mitigation measures are required. The project traffic study recommends that the project contribute traffic impact fees for the project's incremental contribution to the City-wide traffic impact mitigations, which is a standard City requirement. The traffic study also recommends that the City monitor traffic operations at the Butterfield Boulevard/Jarvis Drive (north) intersection and construct median channelization (when intersection volumes and traffic operations warrant) to prohibit left turns and through movements from the Jarvis Drive approaches. As stated in the traffic study, the City already plans to modify this intersection in the future to incorporate the median channelization. Therefore, no mitigation is required.

Biological Resources

Approximately 0.78 acres of seasonal wetlands have been identified in the western portion of the project site. The loss of more than 0.1 acre of seasonal wetland habitat is considered a substantial adverse impact to this sensitive natural community, and therefore, considered a significant impact under the California Environmental Quality Act (CEQA). The seasonal wetlands are isolated and may have formed in depressions resulting from disturbance by vehicles driving through the site. Although the project site is not identified on the *National Wetlands Inventory* and the seasonal wetlands do not appear to be under the jurisdiction of the federal government, appropriate mitigation is required under CEQA as listed in the attached Mitigated

Negative Declaration. Standard mitigation measures regarding burrowing owls are also listed under the Biological Resources section in the Mitigated Negative Declaration.

Noise

The existing noise level on the project site is estimated to be approximately 72 dBA Ldn at a distance of 50 feet from the centerline of Monterey Road and 63 feet from the centerline of Cochrane Road, and 68 dBA Ldn at a distance of 45 feet from the centerline of Butterfield Boulevard. The Public Health and Safety Element of the Morgan Hill General Plan requires indoor noise levels for all new residential housing units to be no more than 45 dBA Ldn. In order to ensure that the proposed units comply with this noise standard, appropriate mitigation measures are required and are incorporated into the Mitigated Negative Declaration. Standard noise mitigation for short-term construction-related noise is also included in the Mitigated Negative Declaration.

RECOMMENDATION

Staff recommends adoption of the Mitigated Negative Declaration and approval of the zoning amendment, subdivision, and development agreement applications, subject to the findings and conditions of the attached resolutions.

Attachments:

1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
2. Zoning Amendment Resolution
3. Subdivision Resolution
4. Development Agreement Resolution
5. Representative Building Elevations



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: 7/20/06 Application #: ZA-05-14 & SD-05-14

APN: 726-25-076 and 726-25-077

Project Title: Jarvis-South Valley Developers (Madrone Plaza)

Project Location: The project site is located in the southeast quadrant of the intersection of Monterey Road and Cochrane Road, between Monterey Road and Butterfield Boulevard, in the City of Morgan Hill.

Project Proponent: South Valley Developers, Inc.

Project Description: The project proposes to rezone the site from *R-3 Medium Density Residential District* to *Planned Unit Development (PUD)* and construct a maximum of 229 multi-family residential units on an approximately 16-acre site. The proposed project will also extend Jarvis Drive from Butterfield Boulevard to Monterey Road.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. CONDITIONS (Mitigation and Avoidance Measures):

A. Air Quality:

- In accordance with the City of Morgan Hill Standard Conditions of approval, prior to recordation of the final map, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for control of dust during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.
- In addition, the Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices would be implemented during construction of the proposed project:
 - Water all active construction areas at least twice daily.
 - Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard.
 - Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
 - Use dust-proof chutes for loading construction debris onto trucks.
 - Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
 - Install gravelbags, fiber rolls, or other effective erosion control measures to prevent silt runoff to public roadways.

B. Biological Resources:

Seasonal Wetlands/Jurisdictional Waters

- Approximately 0.78 acres of seasonal wetlands on the project site shall be replaced at a replacement-to-loss ratio of 1:1 (one acre of wetland created for each acre filled). Compensation would occur either through the purchase of mitigation credits from a local wetland mitigation bank for the creation of wetlands in the region or pursuant to a site-specific mitigation plan. At a minimum, this plan shall identify mitigation areas, a planting plan, and success criteria, along with remedial measures to compensate for lack of success.

Morgan Hill Burrowing Owl Habitat Mitigation Plan

The developer shall participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Game. In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project proposes the following measures to avoid direct and indirect impacts to burrowing owls:

- Pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.
- Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside of the exclusion area until the young have fledged.
- If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.
- The City of Morgan Hill has adopted a fee program that funds setting aside or managing Preserve Land to provide habitat for burrowing owls. Providing habitat for burrowing owls elsewhere offsets indirect and cumulative impacts from the loss of foraging and nesting habitat in the City during the current General Plan planning horizon. Prior to issuance of a building permit, the project applicant shall pay the Burrowing Owl Fee to offset the cost of implementing the Citywide Burrowing Owl Habitat Mitigation Plan.

C. Cultural Resources

In the unlikely event that historic or prehistoric resources are uncovered during project construction, the following standard measures would be implemented:

- All construction within a radius of 50 feet of the find shall be halted, the Director of the Community Development Department would be notified, and an archaeologist shall be retained to examine the find to make appropriate recommendations.
- If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American.
- If the Director of the Community Development Department finds that the cultural resource find is not a significant resource, work shall resume only after the submittal of a preliminary report and after provisions for reburial and/or ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in the CEQA Guidelines.
- If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Director of the Community Development Department for consideration and approval, in conformance with the protocol set forth in the CEQA Guidelines.

D. Geology and Soils

- In accordance with the City of Morgan Hill Standard Conditions of Approval, the applicant shall provide the City of Morgan Hill Chief Building Official with a project specific geotechnical report for review and approval, prior to issuance of building permits. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.
- In addition, the proposed project would conform to Title 24 of the California Code of Regulations (California Building Standards Code). Title 24 contains the regulations that govern the construction of buildings in California. The proposed project would be designed in accordance with Seismic Zone 4 building criteria, as described in the California Building Standards Code. Zone 4 criteria allows buildings to resist minor earthquakes without damage and major earthquakes without collapse.

E. Hydrology and Water Quality

- In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit (NPDES) for Construction Activities, the project would prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans would be submitted to the Director of Public Works for review and approval, prior to final map approval. The ECP and SWPPP would demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) would be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover).
- In accordance with the City of Morgan Hill Standard Conditions of Approval, the project will include a stormwater detention area. All stormwater runoff from the project site would be diverted into the stormwater detention area. Prior to entering the stormwater detention area, the runoff would flow over grassy swales. The grassy swales would filter pollutants out of the stormwater and the detention area would allow sediment to settle out of the stormwater, prior to the stormwater entering the storm drainage system.

F. Noise

Interior Noise Levels

- A project-specific acoustical analysis, as mandated by the State of California for new multi-family uses where noise levels exceed 60 dBA Ldn, shall be prepared for the proposed project. The analyses shall meet the following noise reduction requirements.
 - Interior average noise levels shall be reduced to 45 dBA Ldn or lower to meet State and local standards. Interior maximum noise levels shall be reduced to 50 dBA in bedrooms and 55 dBA in all other habitable rooms.

- Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise.
- Special building construction techniques (e.g., sound-rated windows and building facade treatments) are required for new residential uses adjacent to Monterey Road, Cochrane Road, and Butterfield Boulevard. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, and acoustical caulking.
- The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City of Morgan Hill along with the building plans and approved, prior to issuance of a building permit.

Construction Noise

- Construction activities shall be limited to the hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction activities should occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code).
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from adjacent residential receivers.
- Acoustically shield stationary equipment located near existing residential receivers.
- Utilize "quiet" air compressors and other stationery noise sources where technology exists.
- The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities (e.g., site grading). The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- A "Noise Disturbance Coordinator", responsible for responding to any local complaints about construction noise will be designated by the project applicant. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator will be conspicuously posted at the construction site and included in notices sent to neighbors regarding the construction schedule.
- Prior to issuance of a building permit, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for

control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

III. FINDING

The City of Morgan Hill Community Development Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study are included in the project.

Kathleen Molloy Previsich
Community Development Director

Date: _____

MITIGATION MONITORING AND REPORTING PROGRAM

**JARVIS-SOUTH VALLEY DEVELOPERS
(MADRONE PLAZA)**

ZA-05-14 & SD-05-14



CITY OF MORGAN HILL

AUGUST 2006

PREFACE

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the Mitigation Monitoring and Reporting Program is to ensure compliance with the mitigation measures during project implementation.

On , 2006, the Mitigated Negative Declaration was adopted for the Jarvis-South Valley Developers (Madrone Plaza) project. The Initial Study/Mitigated Negative Declaration concluded that the implementation of the project could result in significant effects on the environment; therefore, mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program outlines these measures and how, when, and by whom they will be implemented.

MITIGATION MONITORING AND REPORTING PROGRAM
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AIR QUALITY				
Earthmoving activities during construction could result in significant dust generation.	<ul style="list-style-type: none"> • In accordance with the City of Morgan Hill Standard Conditions of Approval, prior to recordation of the final map, the applicant shall submit to the Director of Community Development, a management plan detailing strategies for dust control during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. • In addition, the Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices would be implemented during construction of the proposed project: <ul style="list-style-type: none"> ➤ Water all active construction areas at least twice daily. ➤ Cover all trucks hauling soil, sand, or other loose materials or require all trucks to maintain at least two feet of freeboard. ➤ Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. ➤ Use dust-proof chutes for loading construction/demolition debris onto trucks. ➤ Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). ➤ Install gravel bags, fiber rolls, or other effective erosion control 	During construction, the project contractor shall implement the dust control management plan.	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>Prior to recordation of the final map, the applicant shall submit a dust control management plan to the Director of Community Development for review and approval. The BAAQMD construction dust control measures shall be incorporated in the plan.</p>	Director of Community Development

MITIGATION MONITORING AND REPORTING PROGRAM					
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14					
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation	
Up to 0.78 acres of seasonal wetlands will be filled by the project.	<p>measures to prevent silt runoff to public roadways.</p> <p>BIOLOGICAL RESOURCES</p> <ul style="list-style-type: none"> • Approximately 0.78 acres of seasonal wetlands on the project site shall be replaced at a replacement-to-loss ratio of 1:1 (one acre of wetland created for each acre filled). Compensation would occur either through the purchase of mitigation credits from a local wetland mitigation bank for the creation of wetlands in the region or pursuant to a site-specific mitigation plan. At a minimum, this plan shall identify mitigation areas, a planting plan, and success criteria, along with remedial measures to compensate for lack of success. 	<p>If the mitigation bank option is proposed, the applicant shall purchase mitigation credits, prior to recordation of the final map.</p> <p>If the onsite mitigation option is proposed, the project contractor shall implement the site-specific mitigation plan during project development.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>If the mitigation bank option is proposed, the applicant shall provide proof of purchase of the mitigation bank credits to the Director of Community Development, prior to recordation of the final map.</p>	<p>Director of Community Development</p> <p>Director of Community Development, prior to recordation of the final map.</p> <p>If the onsite mitigation is proposed, the applicant shall submit a site-specific mitigation plan to the Director of Community</p>	

MITIGATION MONITORING AND REPORTING PROGRAM JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14				
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Construction during the nesting season, if burrowing owls are present, could disturb or destroy occupied nests, resulting in the loss of the reproductive effort or a take.	<ul style="list-style-type: none"> • The developer shall participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Game. In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project proposes the following measures to avoid direct and indirect impacts to burrowing owls: <ul style="list-style-type: none"> ➤ A pre-construction survey shall be completed to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities. A report from the ornithologist documenting the survey will be provided to the Director of Community Development for review and approval, prior to the start of construction. ➤ Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside of the exclusion 	<p>Development for review and approval, prior to recordation of the final map; prior to issuing a Certificate of Occupancy, the City will verify the approved onsite mitigation plan is implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>The project contractor shall hire a qualified ornithologist to complete the pre-construction burrowing owl survey and ensure project conformance with the Citywide Burrowing Owl Habitat Mitigation Plan.</p>	<p>Director of Community Development</p> <p>A report prepared by a qualified ornithologist documenting the results of the survey and adherence to the Citywide Burrowing Owl Habitat Mitigation Plan shall be submitted to the</p>

MITIGATION MONITORING AND REPORTING PROGRAM JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14				
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>area until the young have fledged.</p> <ul style="list-style-type: none"> ➤ If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided. ➤ The City of Morgan Hill has adopted a fee program that funds setting aside or managing Preserve Land to provide habitat for burrowing owls. Providing habitat for burrowing owls elsewhere offsets indirect and cumulative impacts from the loss of foraging and nesting habitat in the City during the current General Plan planning horizon. Prior to issuance of a building permit, the project applicant shall pay the Burrowing Owl Fee to offset the cost of implementing the Citywide Burrowing Owl Habitat Mitigation Plan. 	Director of Community Development for review and approval, prior to the start of construction.		Director of Community Development
The project could uncover previously unrecorded prehistoric or historic cultural resources during ground disturbing construction activities.	<h3>CULTURAL RESOURCES</h3> <ul style="list-style-type: none"> • All construction within a radius of 50 feet of the find shall be halted, the Director of the Community Development Department would be notified, and an archaeologist shall be retained to examine the find to make appropriate recommendations. • If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American. 	During construction, the project contractor will implement the mitigation measures, if needed.	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Community Development

MITIGATION MONITORING AND REPORTING PROGRAM
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> • If the Director of the Community Development Department finds that the cultural resource find is not a significant resource, work shall resume only after the submittal of a preliminary report and after provisions for reburial and/or ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in the CEQA Guidelines. • If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Director of the Community Development Department for consideration and approval, in conformance with the protocol set forth in the CEQA Guidelines. 			
	<p align="center">GEOLOGY AND SOILS</p>	<p>During construction, the recommendations in the geotechnical report shall be implemented by the project contractor.</p>		
	<p>Soils on the project site are expansive and could adversely affect onsite improvements proposed by the project.</p>	<p>In accordance with the City of Morgan Hill Standard Conditions of Approval, the applicant shall provide the City of Morgan Hill Chief Building Official with a project specific geotechnical report for review and approval, prior to issuance of building permits. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>The applicant shall submit the project specific geotechnical report to the Chief Building Official for review and approval, prior to issuance of building permits.</p>	<p>Director of Public Works/Chief Building Official</p>

MITIGATION MONITORING AND REPORTING PROGRAM				
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14				
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Seismic shaking could damage the improvements proposed by the project and/or expose people to harm.	<ul style="list-style-type: none"> The proposed project would conform to Title 24 of the California Code of Regulations (California Building Standards Code). Title 24 contains the regulations that govern the construction of buildings in California. The proposed project would be designed in accordance with Seismic Zone 4 building criteria, as described in the California Building Standards Code. Zone 4 criteria allow buildings to resist minor earthquakes without damage and major earthquakes without collapse. 	<p>Prior to issuing a Certificate of Occupancy, the City will verify that all measures in the approved geotechnical report were implemented.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>Prior to issuing building permits, the applicant will submit a plan set that conforms to Title 24 of the California Building Standards Code to the Chief Building Official for review and approval.</p>	<p>Director of Public Works/Chief Building Official</p> <p>Prior to issuing a Certificate of</p>

MITIGATION MONITORING AND REPORTING PROGRAM JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14					
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation	
Water quality could be adversely affected during project construction.	<ul style="list-style-type: none"> In accordance with the City of Morgan Hill Standard Conditions of Approval and the General National Pollutant Discharge Elimination System Storm Water Permit (NPDES) for Construction Activities, the project shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan (ECP). The plans shall be submitted to the Director of Public Works for review and approval, prior to final map approval. The ECP and SWPPP shall demonstrate how the project would eliminate or reduce non-stormwater discharges into the stormwater system, how discharges into the stormwater system would be monitored, and what Best Management Practices (BMPs) would be implemented by the project to avoid water quality impacts during construction (e.g., street sweeping, fiber rolls, temporary cover and/or permanent cover). 	<p>During construction, the project contractor shall implement all measures identified in the ECP and the SWPPP.</p> <p>Prior to final map approval, the applicant shall provide a SWPPP and ECP to the Director of Public Works for review and approval.</p>	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Public Works	
HYDROLOGY AND WATER QUALITY					
Water quality could be adversely affected during project operation.	<ul style="list-style-type: none"> In accordance with the City of Morgan Hill Standard Conditions of Approval, the project will include a stormwater detention area. All stormwater runoff from the project site would be diverted into the stormwater detention area. Prior to entering the stormwater detention area, the runoff would flow over grassy swales. The grassy swales would filter pollutants out of the stormwater and the detention area would allow sediment to settle out of the stormwater, 	<p>During construction, the project contractor shall ensure the stormwater detention system is constructed as detailed in the Stormwater Detention</p>	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Public Works	

MITIGATION MONITORING AND REPORTING PROGRAM					
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA-05-09 & SD-05-14					
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation	
	prior to the stormwater entering the storm drainage system.	Study.	Prior to final map approval, the project applicant shall submit a Storm Drainage Study to the Public Works Director and the Santa Clara Valley Water District for review and approval.	Prior to issuing a Certificate of Occupancy, the City will verify the approved stormwater detention system is constructed.	
					NOISE
Existing noise levels on the project site exceed the City's noise thresholds.	<ul style="list-style-type: none"> • A project-specific acoustical analysis, as mandated by the State of California for new multi-family uses where noise levels exceed 60 dBA Ldn, shall be prepared for the proposed project. The analyses shall meet the following noise reduction requirements. <ul style="list-style-type: none"> ➤ Interior average noise levels shall be reduced to 45 dBA Ldn or lower to meet State and local standards. Interior maximum noise levels shall be reduced to 50 dBA in bedrooms and 55 	<p>During construction, the project contractor shall ensure the noise attenuation measures are implemented.</p>	All measures shall be printed on all construction documents, contracts, and project plans.	Director of Community Development/ Chief Building Official	

MITIGATION MONITORING AND REPORTING PROGRAM
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA-05-09 & SD-05-14

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>dBA in all other habitable rooms.</p> <ul style="list-style-type: none"> ➤ Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. ➤ Special building construction techniques (e.g., sound-rated windows and building facade treatments) are be required for new residential uses adjacent to Monterey Road, Cochrane Road, and Butterfield Boulevard. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, and acoustical caulking. ➤ The specific determination of what treatments are necessary will be completed on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City of Morgan Hill along with the building plans and approved, prior to issuance of a building permit. 	<p>project-specific acoustical analysis prepared by a licensed professional shall be submitted to the Chief Building Official for review and approval.</p> <p>Prior to issuing a Certificate of Occupancy, the City will verify the approved noise attenuation measures were incorporated into the project.</p>		<p>Director of Community Development/ Chief Building Official</p>
<p>Project construction would temporarily increase noise levels in the project area.</p> <ul style="list-style-type: none"> • Construction activities shall be limited to the hours between 7:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays. No construction activities shall occur on Sundays or federal holidays (Consistent with Section 8.28.040 of the Morgan Hill Municipal Code). • Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. 		<p>The project contractor shall ensure the construction noise mitigation measures and management plan are implemented during all phases of development.</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Prior to issuance of a building permit, the applicant shall submit to the</p>

MITIGATION MONITORING AND REPORTING PROGRAM
JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA-05-09 & SD-05-14

Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<ul style="list-style-type: none"> • Locate stationary noise generating equipment as far as possible from adjacent residential receivers. • Acoustically shield stationary equipment located near existing residential receivers. • Utilize "quiet" air compressors and other stationery noise sources where technology exists. • The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities (e.g., site grading). The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. • A "Noise Disturbance Coordinator", responsible for responding to any local complaints about construction noise will be designated by the project applicant. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator will be conspicuously posted at the construction site and included in notices sent to neighbors regarding the construction schedule. • Prior to issuance of a building permit, the applicant shall submit to the Community Development Director for approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. 		Community Development Director for review and approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project.	A Noise Disturbance Coordinator shall be designated by the project applicant to ensure the construction noise mitigation measures are implemented.	

MITIGATION MONITORING AND REPORTING PROGRAM JARVIS-SOUTH VALLEY DEVELOPERS (MADRONE PLAZA) ZA- 05-09 & SD-05-14					
Impact(s)	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation	

SOURCE: City of Morgan Hill, *Jarvis South Valley Developers (Madrone Plaza) Initial Study*, July 2006.

RESOLUTION NO. __-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING TO THE
CITY COUNCIL THE ESTABLISHMENT OF A R3/PLANNED
UNIT DEVELOPMENT ZONE AND APPROVAL OF A
PRECISE DEVELOPMENT PLAN FOR A 229-UNIT MULTI-
FAMILY PROJECT LOCATED ON A 15.8-ACRE SITE AT
THE SOUTHEAST CORNER OF COCHRANE ROAD AND
MONTEREY ROAD (APNs 726-25-076 & -077)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of August 8, 2006, at which time the Planning Commission recommended approval of zoning amendment application, ZA-05-14: Jarvis – South Valley Developers; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The Planning Commission finds that the proposed PUD Overlay District is consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code.

SECTION 5. The Planning Commission recommends amendment to the City Zoning Map as shown in the attached Exhibit "A".

SECTION 6. The Planning Commission hereby recommends approval of a precise development plan as contained in that certain series of documents date stamped August 3, 2006, on file in the Community Development Department, entitled "Madrone Plaza PUD" prepared by EDI Architecture, Inc. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

- SECTION 7.** As part of the PUD and precise development plan, the Planning Commission recommends approval of three story structures up to 40 ft in height as illustrated on the representative building elevations and reduced setbacks, lot sizes, and lot dimensions as identified on the precise development plan.
- SECTION 8.** The Planning Commission recommends Council approval of up to 26 modified setback dwellings along the Jarvis Drive and Butterfield Boulevard project frontages and around the open space area located on the 6.5-acre South County Housing portion of the site. All modified setback dwellings shall be subject to compliance with Ordinance No. 1641, N.S. and Ordinance No. 1700, N.S.
- SECTION 9.** If building permits for the 26 modified setback dwellings are not pulled by June 30, 2007, the units shall either be physically attached **OR** the applicant shall obtain Council approval for the extension of Ordinance No. 1700, N.S., allowing the 26 FY 2007-08 allotments to be constructed as modified setback dwellings.
- SECTION 10.** Future building additions are prohibited in any yard (front, rear, side) for which a reduced setback was approved by this RPD, unless the additions comply with the site development standards of the R3 zoning district.

**PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2006, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

FRANCES O. SMITH, Deputy City Clerk

APPROVED:

ROBERT J. BENICH, Chair

EXHIBIT "A"

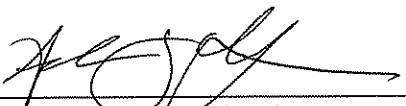
**PROPERTY DESCRIPTION OF AREA
TO BE REZONED FROM "R3" TO "R3 PUD"**

All that real property situated in the City of Morgan Hill, County of Santa Clara, State of California and being more particularly described as follows:

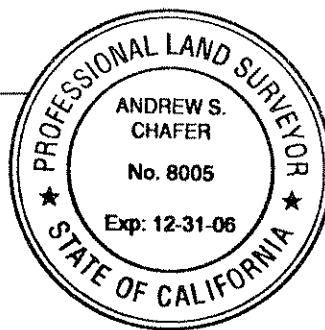
All of Parcel 1 & 2, as said parcels are shown on that certain Parcel Map filed for record on May 29, 2002 in Book 749 of Maps, at pages 6 and 7, at the Office of the Recorder of Santa Clara County and containing an area of 15.78 acres, more or less.

**See Exhibit "B" attached hereto and made a part hereof.
End of Description.**

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors' Act.

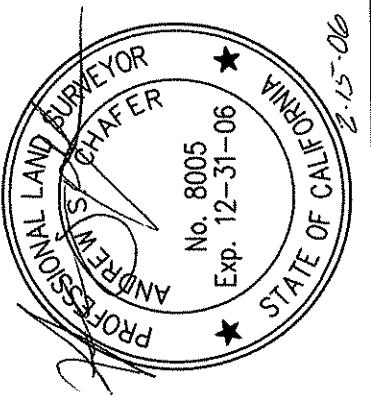
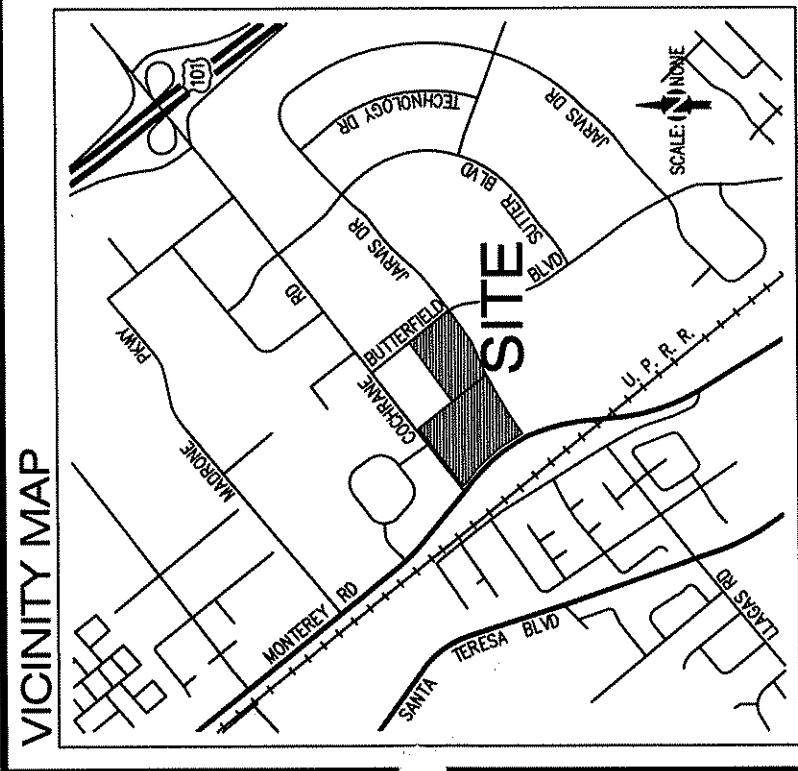
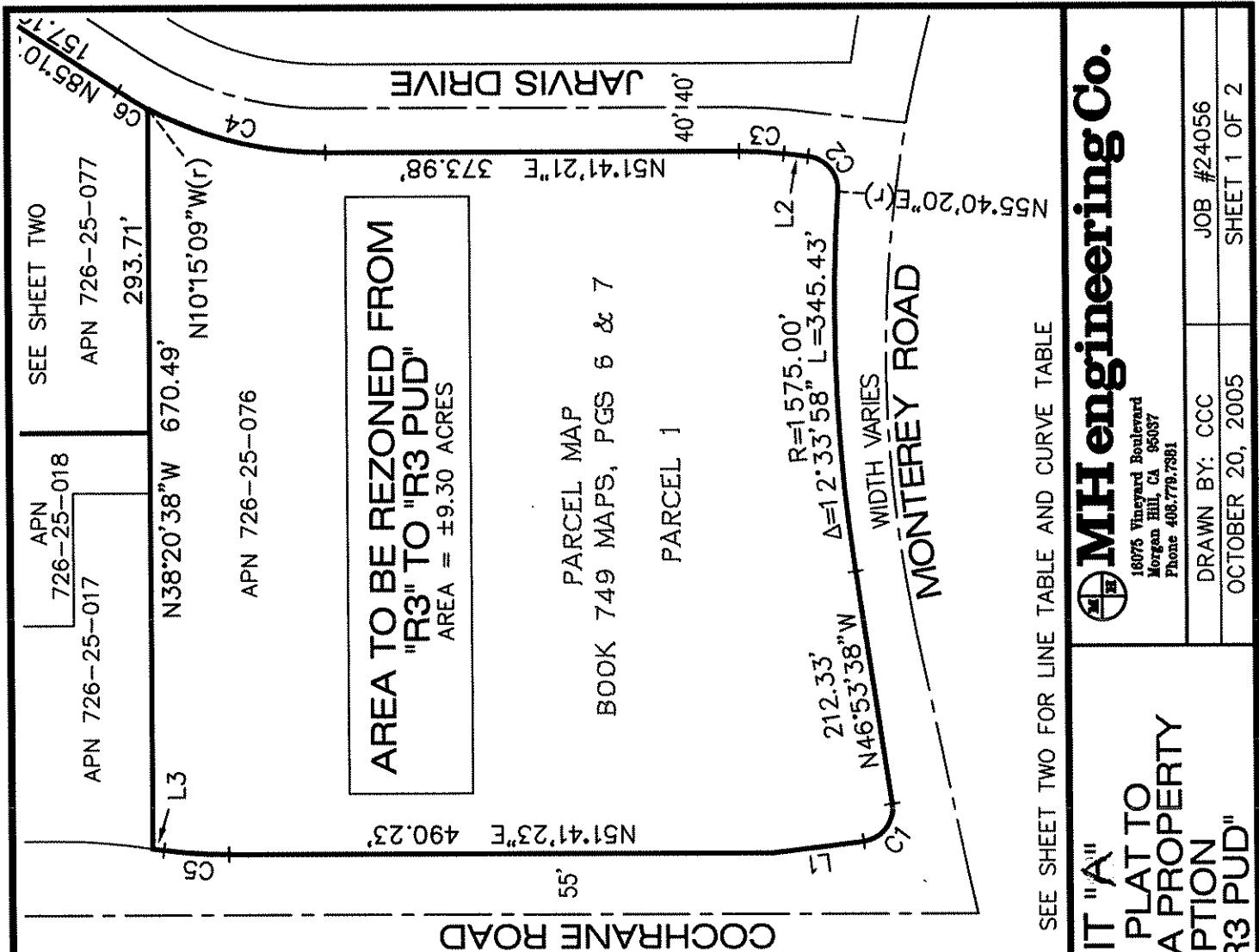

Andrew S. Chafer, P.L.S. 8005
Expires: 12/31/2006

2-15-06
Date



Prepared by the firm of MH engineering Company, Morgan Hill, CA

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Last printed 2/15/2006 10:36:00 AM



MH engineering Co.

16075 Vineyard Boulevard
Morgan Hill, CA 95037
Phone 408.778.7881

DRAWN BY: CCC	JOB #24056
OCTOBER 20, 2005	SHEET 1 OF 2

CURVE TABLE

CLIPVE RADII LENGTH DELTA

CURVE	RADIUS	LENGTH	DELTA
C1	30.00'	47.89'	91°27'28"
C2	30.00'	45.82'	87°30'01"
C3	360.00'	40.73'	6°28'58"
C4	340.00'	166.50'	28°03'30"
C5	450.00'	59.15'	7°31'54"
C6	340.00'	32.16'	5°25'10"
C7	260.00'	141.61'	31°12'23"
C8	30.00'	48.33'	92°18'16"

LINE TABLE

LINE	BEARING	LENGTH
L1	N44°33'50"E	83.72'
L2	N58°10'19"E	22.05'
L3	N59°13'17"E	9.99'

LEGEND

APN ASSESSOR'S PARCEL NUMBER
(r) RADIAL BEARING
CENTERLINE

LIMITS OF AREA TO BE REZONED

COCHRANE ROAD

A scale bar diagram for a map. It features a horizontal line with two tick marks. The distance between these tick marks is labeled as "1". To the right of the line, the text "1" is followed by a double quotes symbol, and then "= 150 ft" is written, indicating a scale of 1 inch representing 150 feet.

N53°57'38"

N38°20'38" W 423,74'

N53°57'38"E 352.34'

**AREA TO BE REZONED
FROM "R3" TO "R3 PUD"**

PARCEL MAP
BOOK 749 MAPS, PGS 6 & 7

PARCEL 2

157.16°E
145.10°O

APN 726-25-076
SEE SHEET ONE

EXHIBIT "A"
REZONING PLAT TO
ACCOMPANY A PROPERTY
DESCRIPTION
"R3" TO "R3 PUD"

MH Engineering Co.

180/3 Avenue de l'Europe
Morgan Hill, CA 95037
Phone 408/779-7381

DRAWN BY: CCC JOB #24056
OCTOBER 20, 2005 SHEET 2 OF 2

RESOLUTION NO. 06-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL APPROVING A 78-LOT
SUBDIVISION OF 9.3-ACRE SITE LOCATED AT THE
SOUTHEAST CORNER OF COCHRANE ROAD AND
MONTEREY ROAD IN AN R3/PUD ZONING DISTRICT
(APNs 726-25-076)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of August 8, 2006, at which time the Planning Commission approved subdivision application, SD-05-14: Jarvis – South Valley Developers; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The approval of this subdivision is contingent upon the City Council approval of a Planned Unit Development zoning designation as contained in Zoning Amendment application, ZA-05-14: Jarvis – South Valley Developers.

SECTION 3. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 5. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

**PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2006, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

FRANCES O. SMITH, Deputy City Clerk

APPROVED:

ROBERT J. BENICH, Chair

A F F I D A V I T

I, **Scott Schilling of South Valley Developers**, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Scott Schilling, Applicant

Date: _____

EXHIBIT "A"

STANDARD CONDITIONS

APPLICATION: Zoning Amendment, Subdivision, Development Agreement Applications, 2A-05-14/0A-05-13; Jarvis - South Valley Developers

THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE ISSUANCE OF BUILDING AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS OTHERWISE SPECIFIED IN THE CONDITIONS. APPROVAL REQUIREMENTS ARE NOT LIMITED TO THE ITEMS LISTED BELOW AND NOT ALL OF THE STANDARD CONDITIONS ARE APPLICABLE TO THE SITE OF A SPECIFIC PLANNING APPLICATION.

THOSE CONDITIONS MARKED BY AN "X" ARE APPLICABLE TO THE PROJECT APPLICATION REFERENCED ABOVE.

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

I. TIME LIMITS

- A. The Site and Architectural approval granted under this Resolution shall remain in effect for one year to 200. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. (**MHMC 18.74.250**)
- B. The Tentative Subdivision/Parcel Map approval granted under this Resolution shall remain in effect for two years to AUGUST 8, 2008. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Community Development Department (parcel map)/Planning Commission (tentative map) prior to the expiration date. (**MHMC 17.20.170; 17.24.110**)
- C. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months to 200. Failure to commence the use within this term shall result in
- D. _____
- E. _____
- F. _____
- G. _____
- H. _____
- I. _____
- J. _____
- K. _____
- L. _____
- M. _____
- N. _____
- O. _____
- P. _____
- Q. _____
- R. _____
- S. _____
- T. _____
- U. _____
- V. _____
- W. _____
- X. _____
- Y. _____
- Z. _____

termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date. (**MHMC 18.54.070**)

A)

In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. (**MHMC 18.54.090**)

Prior to approval and recordation of the final map, written certification from the Morgan Hill Unified School District shall be submitted to the Community Development Department which states that adequate school facilities are or will be capable of accommodating students generated by this project. Such letter of certification must have been issued by the School District within 90 days prior to the final map approval.

standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

II. SITE DEVELOPMENT

✓ A.

Prior to on-site grading, the applicant shall enter into an agreement with the City of Morgan Hill for consultant services. The City shall retain the services of a professional arborist to evaluate the condition of any on-site specimen tree(s) affected by construction activity, and recommend appropriate written specifications which will preserve such trees during and after construction. The City shall provide copies of said written specifications to the applicant, who shall assume responsibility for implementing all recommended actions contained in that document.

✓ B.

The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the City Attorney prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:

1. Common Areas/Right of Ways:

a. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill

- c. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association
- d. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
- e. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
- f. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance

STANDARD CONDITIONS

Page - 3 -

obligation or duty of maintenance is increased by such amendment.

2. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.

3 Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.

Final site development plans shall be reviewed and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:

1. Detail depicting all concrete curbs as full formed.

2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing. (MHM 18.74.370)

3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities. (MHM 18.50.110; 18.74.470)

4. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with

the architecture of the building(s). In residential areas, trash enclosure areas shall require an overhead shade structure. Trash enclosures shall be required in all commercial and industrial projects and in residential projects containing four or more dwelling units. (MHM 18.74.505)

5. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. (MHM 18.74.320) For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.

6. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.

✓ D.

Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHM 18.78.020)

✓ E.

Prior to recordation of the final map, the owner shall submit to the Community Development Director for his approval, a management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

✓ C.

STANDARD CONDITIONS

Page - 4 -



- F. Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval.

commercial/industrial buildings with parking areas, open spaces and recreational uses.

III. BUILDING DESIGN

- A. All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment. (MHM^C 18.74.320)
- B. Roof top lighting is not approved for any building within the project. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use. All parking lot lighting shall be high pressure sodium. (MHM^C 18.74.360)
- C. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior. (MHM^C 18.74.360)
- D. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building. (MHM^C 18.74.340)

- C. All units shall be provided with automatic garage door openers if driveway is less than 18 feet in depth from back of sidewalk.
- ✓ D. Prior to final map approval or issuance of a building permit, the owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval by the City Attorney for reciprocal ingress/egress easements along the common driveway.

V. LANDSCAPING

- A. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.74.560(d) of the Design Review Ordinance. Bond amount shall be based on the assigned value of \$2.50 per square foot of area of planting and irrigation improvements. (MHM^C 18.74.560)
 - B. Detailed landscape planting and irrigation working drawings shall be submitted to the Community Development Department for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.
 - C. Special landscape features such as mounding, field stones, specimen size trees, meandering sidewalks and landscaping, minimum _____ feet in width, shall be required along _____.
 - D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by (the property owner/Homeowner's Association) _____ as part of the common area improvements.
-
- ✓ A. The interior of any parking area shall be landscaped with planter areas measuring a minimum five feet in width, minimum inside dimension. Additional planters shall be provided at both ends of a row of spaces with the planter area length equal to the adjoining parking spaces. Such planters shall contain an 18" walk adjacent to parking stall (including curb width). (MHM^C 18.74.550 C)
 - B. Textured pedestrian pathways across circulation aisles shall be provided throughout the development to connect dwellings or

STANDARD CONDITIONS

Page - 6 -

- E. All trees within approved landscape plans shall be of a minimum fifteen gallon size. All shrubs shall be minimum 5 gallon size unless otherwise approved by the Community Development Director.
- F. A soils report shall be provided with landscape plan at the building permit stage indicating agricultural suitability and soil fertility.

prior to occupancy. Directory signs may also be provided for any multi-tenant commercial or industrial building. Location of the sign(s) shall be interior to the project and design of the directory sign(s) shall be approved by the Planning Division and Fire Department prior to issuance of building permits.

OTHER CONDITIONS

VII.

- The balance of a building site not developed as part of this project approval shall be placed in landscaping acceptable to the Planning Division.
 C. ~~Common open space lot~~
A note shall be placed on the final map which shall indicate that ~~the site~~ ~~shall~~ ~~be~~ shall be used for no purpose other than for ~~existing facilities~~ recreational amenities. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds; Easements; Covenants, Conditions and Restrictions (CC&Rs), Dedication, Homeowners Association; etc.]
- I. The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or modification to the landscaping shall be permitted with the approval of the Director of Community Development.

VI.

SIGNS

- A. The applicants shall obtain Planning Division approval of a sign program prior to issuance of building permits. The terms of said sign program shall be included as a disclosure in all future leasing agreements affecting this parcel.
- B. The signs indicated on the plan set drawings are not approved with the subject site review application. Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.

Directory monument sign(s) and location map(s) shall be provided for apartment, condominium, or townhouse projects

VIII.

It is recognized that the subject structure is proposed as speculative and the ultimate use is unknown at this time. Future commercial/industrial users of this site are subject to the City's commercial/industrial performance standards and may require use permit approval.

The applicant for land use approval has received notice that the issuance of a building permit to implement such land use action may be suspended, conditioned or denied where the City Council has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of Morgan Hill or to meet discharge standards imposed by the California Regional Water Quality Control Board.

The City of Morgan Hill currently may not have the sewage treatment capacity necessary to serve this project. Building permit issuance will not be allowed until and unless sewer capacity has been obtained for the project.

Prior to development of the subject property, the applicant shall follow the recommendations of the Northwest Information Center, Sonoma State University, regarding the investigation of potentially-significant archeological resources on the site, and shall follow recommended actions for the preservation and protection of any resources discovered during such investigation before and during construction activity.

E. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of

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the ZA/SO/PA apps. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

Submitt two (2) signed copies of Approval ~~Certificate~~/Resolution No. 06-Subdivision to the Planning Division prior to issuance of building permits.

Prior to approval of the final map (or issuance of a building permit where no map is required), the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the proposed project.

✓ H.

The applicant shall be subject to compliance with the mitigation measures of the project environmental assessment.

- I.
1. After project approval the applicant shall conduct a preconstruction survey to avoid the take of individual burrowing owls. The preconstruction survey shall be conducted not more than 30 days prior to construction to assure take avoidance of burrowing owls. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).
 - a. If there are construction activities during the breeding season, and if burrowing owls are observed on, or within 250 feet of the project site during preconstruction surveys, a 250 foot protective buffer shall be established and monitored.
 - b. If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the CDFG once mitigation has been provided (PLNG).

✓ F.

✓ G.

HOUSING DIVISIONGENERAL REQUIREMENTS

BMR units shall be subject to resale restrictions under individual agreements which shall be binding for a minimum of 45 years.

- A. Relocation assistance in the form of a list of available rental units of similar price and in the same general area shall be provided each tenant, together with a relocation allowance equal to three (3) months rent at the tenant's rate in effect at the time final approval is granted. The rental list shall be updated weekly by the applicant until residences are vacated. A copy of all assistance plans shall be forwarded to the Housing Division for approval. Payment shall be made when relocation expenses are incurred or no later than the time the tenant vacates the premises. (**MHMC 15.30.050**)

The Property Owner shall enter into agreement with the City to provide at least 10% of the for sale homes for participation in a below market rate (BMR) sales program approved by the Planning Division. The BMR participation agreement shall run with the land, and the provisions thereof shall be subject to review by City Attorney prior to recordation.

The BMR participation agreement shall include the following provisions:

- Family size shall be considered when a home is offered through the BMR program. No distinction shall be made between adults and children;
- BMR units must be affordable to families at or below the county's current median income as defined by the United States Department of Housing and Urban Development;
- The monthly housing cost shall include:
 - unit purchase price
 - current lending rates
 - estimated taxes
 - estimated insurance
 - homeowner's association fee
 - other expenses as determined by the lender
- Units shall be available only to first time home buyers as defined by the BMR program and who currently reside within the County of Santa Clara.

BMR units shall be subject to resale restrictions under individual agreements which shall be binding for a minimum of 45 years.

- C. The Property Owner shall enter into agreement with the City to provide at least of the units for participation in a below market rate (BMR) rental program approved by the Planning Division. The BMR participation agreement shall run with the land, and the provisions thereof shall be subject to review by City Attorney prior to recordation.
- The BMR participation agreement shall include the following provisions:

Family size shall be considered when a rental unit is offered through the BMR program. No distinction shall be made between adults and children;

 of the BMR units upon the issuance of the certificate of occupancy must be affordable to families at very low or below the County's current median income as defined by the United States Department of Housing and Urban Development and the remaining BMR units must be affordable to families at low or below the County's current median income.

Property Owner agrees not to convert units to condominiums for a period of twenty (30) years.

Tenants will be selected from the City's waiting list.

Property owner shall abide by the Program Guidelines incorporated herein by this reference.

- D. The project is located in the Central Commercial-Residential (CC-R) zoning district and therefore must comply with the provisions of the Downtown Replacement Housing Program (DRHP). Those provisions may require that relocation assistance and/or on-site replacement housing be provided to current or past residents of the property. The applicable provisions of the DRHP must be satisfied prior to issuance of building permits for the subject project. (**MC 15.30.050; 15.330.060**)

E. Property Owner agrees to pay double the standard Housing mitigation fee.

Property Owner agrees to pay double the standard Housing mitigation fee.

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BUILDING DIVISION

IX. EXISTING STRUCTURES

A. Existing building(s) where an occupancy change or use occurs, shall be made to comply with current Building Code for the intended use. (**UBC 3045**)

B. Removal of existing sewage disposal facilities and connection to city services shall be required prior to final inspection. (**MHMC 13.24**)

C. Additions to structures and/or a change in occupancy of use are required to install fire sprinklers. (**MHMC 15.08.070**)

X. GRADING

XI. SITE DEVELOPMENT

A. Prior to issuance of building permits, the applicant shall provide two copies of a soils (Geotechnical) engineering report prepared by a registered Civil (Geotechnical) Engineer. The report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading criteria for corrective measures, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, per UBC Appendix Chapter 70. The report shall also include soil classification and foundation investigation as required by UBC Chapter 29. (**UBC, Appendix 33**)

B. Prior to issuance of building permits, the applicant shall provide contract documents for on-site improvements including comprehensive site grading and drainage plan. Said plan shall provide for exportation of excess soil material as necessary. (**UBC, Appendix Chapter 33**)

Prior to issuance of building permits, the applicant shall provide contract documents for on-site improvements including:

1) Comprehensive site grading and drainage plan. Said plan shall provide for exportation of excess soil material as necessary and controlled drainage of storm water away from building.

2) Comprehensive erosion control plan, including hydromulching or hand-seeding methods to be used in all graded or cleared areas. Said plan shall meet the minimum standards and specifications of the Loma Prieta Resource Conservation District.

3) All cuts and fills shall be at a 2:1 slope or less unless stabilized by a retaining wall or cribbing as approved by the City Engineer. Retaining walls that retain four feet or more measured from immediate grade shall be of concrete or masonry. (**MHMC 15.08.050**)

C. Prior to issuance of building permits, the applicant shall provide two copies of an engineering geology report, prepared by a registered Engineer Geologist. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors. (**UBC Appendix Chapter 33**)

D. Record of survey required. Lot stakes to be set by registered Civil Engineer or licensed Land Surveyor prior to issuance of building permits. (**UBC 108.1**)

Plans for all septic tank sewer systems shall be submitted to the Santa Clara County Environmental Health Department for review and issuance of a septic tank permit. Location of the approved septic tank leach field and expansion area shall be depicted on the revised site plan as part of a final submittal. (**MHMC 13.24**)

OTHER CONDITIONS

A. The applicant shall have an acoustical analysis prepared by a licensed professional, specifying the manner in which interior noise levels will be reduced to the required forty-five (45)

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dB(A). The details of noise attenuation recommended in the report will be subject to review and approval of the Chief Building Official prior to issuance of the building permit. (UBC Appendix 1208)



Submit minimum six (6) complete sets of working drawings and specifications. Building plans shall be drawn at a minimum 1/4" scale. Minimum sheet size shall be 18" x 24". Submit minimum - six (6) complete sets of drawings for all commercial and or industrial buildings. (UBC 106.3.3)



A demolition permit from the Building Division of the City of Morgan Hill is required prior to the demolition of any structure. All structures which are 50 years old or older must complete a 15 day posting requirement. All structures must obtain a permit from the Bay Area Air Quality Control Board prior to

demolition. (MHM 15.60)

Permits for new structures or additions will require compliance with the Building Security Ordinance. Requirements such as the installation of dead bolts on doors, protection methods for windows, garage door security, commercial roof opening security, lighting at all exit doors, etc. may be required. (MHM 15.40)

Permits for new structures or additions to existing structures will require the installation of fire sprinklers. (MHM 15.08.070)

All copper tube for water piping shall have a weight of not less than type "L". (MHM 15.20.050)



D.



E.



F.

PUBLIC WORK DEPARTMENTENGINEERING DIVISIONXII GENERAL

- A. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. Should the applicant propose the use of development and/or construction standards for any improvement and/or land uses, which are different than those presently set forth in the City's codes and ordinances, such alternative standards must be presented and approved by the Director of Public Works. The applicant shall cause Standard Specifications and Standard Drawings to be prepared in a format to be approved by the Director of Public Works. (MHM/C 17.32.080)
- B. The applicant shall have a Final Map prepared by a registered engineer or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be as required by the Public Works Department. (MHM/C 17.20.200)
- C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. (MHM/C Sec 17.32.080)
- D. Obtain necessary encroachment permits from City of Morgan Hill/County of Santa Clara/ State of California/ Santa Clara Valley Water District, and provide guarantee covering off-site improvements. (MHM/C 12.08.040 A)
- E. Modification of existing map to show (Storm Drain System) (Pavement widths) (Curve Radius) (Existing Utilities) on _____ (MHM/C 17.20.040)
- F. Enter into a Subdivision Improvement Agreement with the City of Morgan Hill to cover required improvements. (MHM/C 17.32.160)
- G. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. (MHM/C 17.20.340; 17.20.350)
- H. The applicant shall submit a complete traffic study of the area affected by the proposed project. This study shall be subject to review and approval by the Public Works Director prior to the issuance of any City permits. All mitigating improvements outlined in the study shall be installed by the applicant at his expense. (MHM/C 17.32.090)
- I. Prior to final map approval or issuance of a building permit, the applicant shall pay $\frac{1}{2}$ the cost of an improved median on portion covering the project frontage. Said cost shall be determined by the City Engineer. (MHM/C 3.44.020)
- J. A map for assessment district reapportionment and reassessment spread shall be prepared and submitted to the City Engineer for review, approval and City submittal to the County Assessor. Said map shall be recorded concurrent with subdivision/parcel map. (MHM/C 17.20.350)
- K. Pursuant to City Ordinance 982, the subject property will have reimbursement obligation to the City for lands acquired for street purposes and streets improved should those lands/street improvements abut or be included within subject property. (MHM/C 12.02.120 B).
- L. IMPACT FEE INCREASE-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established ten specific categories of impact fees to finance the cost of improvements

STANDARD CONDITIONS

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required by new development. The City Council has chosen to implement certain fees, withhold implementation of certain fees, and stage the implementation of certain fees. City Code Chapter 3.56.050 provides for automatic annual (July 1) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. Those fees which a developer elects to defer shall be subject to the fees in effect at the time of development of a lot (issuance of building permit). The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours.

STREET IMPROVEMENTS

A.

The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with both the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. (MHMPC 17.32.060)

B.

Installation ~~and dedication~~ of street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting on Jarvis Drive in conformance with City of Morgan Hill requirements. (MHMPC 17.32.060)

B.

Dedication of a total of _____ feet from center line of public right-of-way on _____. (MHMPC 17.28.010)

C.

D. Dedication of the required corner cutoff at the intersection of _____. (MHMPC 17.28.010)

SANITARY SEWER SYSTEM

A.

The applicant, at his or her expense, shall have a registered civil engineer prepare a complete sewer system capacity study of the on- and off-site sewer system which will service the project (both upstream and downstream). The study shall meet the approval of the Director of Public Works. All needed improvements shall be installed by the applicant. No downstream overloading of existing sewer system will be permitted. (MHMPC 17.32.090)

B.

The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on Streets and Jarvis Drive. Collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. (MHMPC 17.32.020 C)

C.

All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. (MHMPC 13.24.080)

STORM DRAIN SYSTEM

A.

A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. (MHMPC 17.32.090)

B.

The applicant shall cause the design and construction to be undertaken for a storm drain collection system shown on the Tentative Map. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. (MHMPC 17.32.020 B)

C.

Collection system shall be designed to be capable of handling a year storm without local flooding. On-site detention facilities

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shall be designed to a 25-year storm capacity. Whereas, on-site retention facilities shall be designed to a 100 year storm capacity. Items of construction shall include, but not be limited to installation of storm line extension on site and Jarvis Drive surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. (MHMC 17.32.080)

WATER SYSTEM

XVI. A.. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. (MHMC 17.32.090)

- D. Prior to final map approval the applicant shall complete the following to the satisfaction of the Santa Clara Valley Water District and Director of Public Works.
1. Storm drain calculations to determine detention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.³
 3. Storm Water Pollution Prevention Plan.

B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with District standards.

C. Installation of water line extension on site and Jarvis Dr. (MHMC3.44.010)

C. Provide separate water services and meters for each lot. These are to be installed by developer. (MHMC 17.32.020 D)

D. Should the City determine that additional water storage capacity is required, the applicant shall pay a share of any necessary improvement costs. The timing and amount of payment (developer's proportionate share) may be based on City-wide usage) shall be determined by the Public Works Director. (MHMC 3.44.010)

XVII. E.. Since the developed portion of this site encompasses more than 1 acres, a Storm Water Pollution Prevention Plan (SWPPP) will be required as a provision of the state's General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities. The SCVWD requests a copy of the SWPPP for their information (SCVWD).

OTHER CONDITIONS

A. The owner shall dedicate all necessary utility easements. Each requirement shall be determined by the Director of Public Works, and shall be accompanied by appropriate legal descriptions. (MHMC 17.28.010)

B. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. (MHMC 17.32.020 E.1)

The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading

C. Land use for the hydrology of the PL-566 channel improvement project for this site is single family. Land use of greater intensity, as proposed, will require mitigation of the increased runoff due to development. Mitigation measures, such as a detention facility, will need to remain in place indefinitely after the PL-566 channel improvements are completed, or until a regional detention facility or additional channel improvements are constructed. Calculations for the sizing of the proposed detention facility and an analysis of the impacts in the event of a one percent flood should be provided for review of the SCVWD (SCVWD).

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permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. (MHM^C 17.20.380; 17.24.210)

D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.

E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. (MHM^C 17.08.090)

OFFICE OF JOINT POWERS PRETREATMENT

XVIII. COMMERCIAL AND INDUSTRIAL BUILDINGS

- A. Restaurants and food preparation facilities shall install grease interceptors. The type, size and location of said interceptors shall be to the approval of the Public Works Director and the Pretreatment Office.
- B. Installation of a sewer test manhole in lieu of a property line clean-out, shall be provided for each building, in accordance with standard city specifications. (MHM C 13.20.270)
- C. Where a septic tank system is proposed, a copy of the approval permit from the Santa Clara County Environmental Health Department shall be filed with the Office of Joint Powers Pretreatment prior to issuance of a building permit.

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FIRE DEPARTMENT

SITE DEVELOPMENT

- A. Required Fire Flow. Required fire flow for this project is 1000 GPM at 20 psi residual pressure. The required fire flow available from area water mains and fire hydrant(s) which are spaced at the required spacing. (UFC Appendix III-A) **Fire flow requirements only apply to Phase 1 (the twin houses and the Clubhouse)**
- B. Fire Hydrant Location Identifier: Prior to project final inspection, the general contractor shall ensure that an approved ("Blue Dot") fire hydrant location identifier has been placed in the roadway, as directed by the fire department.
- C. Automatic Fire Sprinkler System Required. Buildings requiring a fire flow in excess of 2,000 GPM shall be equipped throughout with an approved automatic fire sprinkler system. The fire sprinkler system shall be hydraulically designed per National Fire Protection Association (NFPA) Standard #13, 1994 Edition. (UFC 1003.2.2 as amended by MHMC 15.44.040)
- D. Final Required Fire Flow. Required fire flow may be reduced up to 50% in buildings equipped with automatic fire sprinkler systems but, can be no less than 1,500 GPM. Therefore, the final required fire flow is _____ GPM at 20 psi residual pressure. This flow shall be taken from any two fire hydrants, on or near the site so long as they are spaced at a minimum spacing at 250 feet. (UFC Appendix III-A, Section 5)
- E. Public Fire Hydrant(s) required. Provide _____ public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the Morgan Hill Public Works Water Company. Maximum hydrant spacing shall be 500 feet and the minimum single flow hydrant shall be 1000 GPM at 20 psi residual pressure. Prior to applying for building permit, provide _____ serving the site. To prevent building permit delays, the developer shall pay all required fees to the MHPD Public Works Dept. _____ place, include civil drawings showing location of all hydrants with the building permit submitted. (UFC 903.2)
- F. Private Fire Hydrant(s) Required. Provide _____ private on-site fire hydrant(s) installed per NFPA Std. #24, at locations(s) to be determined by the Fire Department. Maximum hydrant spacing shall be _____ feet and the minimum single flow hydrant shall be _____ GPM at 20 psi residual pressure. Prior to design, the project civil engineer shall meet with the fire department water supply officer to jointly spot the hydrant locations. (UFC 903.2)
- G. Required Fire Flow Option (Single Family Dwelling). Provide required fire flow from fire hydrants spaced at a maximum of 500 feet OR provide an approved fire sprinkler system throughout all portions of the building. The fire sprinkler system shall conform to National Fire Protection Association Standard #13D, 1994 Edition, and local ordinance requirements. (UFC 903.2)
- H. Water Supply for Fire Protection (Single Family Dwelling). Provide a water tank of _____,000 Gallons capacity and one _____ fire hydrant. Installations shall conform with Fire Department Standard Details and Specifications W-1. (UFC 903.2)
- I. Required Hydrant Installation(s). Hydrants shall be installed and spaced along the new or replacement water main installation(s) at a maximum spacing of _____ feet. Provide hydraulic calculations to show that required fire flow can be provided. (General Order 103)
- J. Private on-site Fire Service Mains and Hydrants. Installations shall conform to National Fire Protection Association Standard #24, and Fire Department Standard Details and Specifications W-2. (UFC 903.2) A separate installation permit from the Fire Department is required. If the supply piping is "combined" (sprinkler system & hydrants), a 4-in. approved 4-way FDC shall be provided. Timing of Required Water Supply Installations. Prior to the commencement of combustible construction, the required Fire service(s) and Fire Hydrant(s) and Water Supply installations shall be in place, inspected, tested and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk
- K. _____

STANDARD CONDITIONS

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shall not be delivered to the construction site until installations are completed as stated above. Clearance for building permits may be held until installations are completed. (UFC 901.3)
, tested, and accepted.

L. **Location of Required Fire Protection System(s) Equipment.** Location of Fire Hydrants, Fire Sprinkler System(s) Control Valves (PIV / OS&Y), Fire Department Connections (FDC) and Fire Alarm Equipment shall be coordinated with the Fire Department and the Project Planners. (UFC 1001.7.1; 1001.8)

M. Review of this Development proposal is limited to acceptability of site access and water supply as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

N. Review of these plans does not release the developer, architect, or contractor of the responsibility for the corrections of mistakes, errors or omissions contained therein.

O. This record contains standard wording for developmental review comments. The section(s) may be copied and pasted into other documents to save time and improve accuracy. Use of a standard format and standard wording has been requested by the cities and recommended by their respective city/town attorneys. **PARTS ARE LOCATED AT 97-0001-0004.**

P. **Fire Apparatus (Engine) Access Roads Required.** Prior to the commencement of combustible construction, an access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform with Fire Department Standard Details and Specifications A-1. (UFC 902.2.2)

Q. **Fire Department (Engine) Roadway Turn-around Required.** Prior to the commencement of combustible construction the applicant shall provide an approved fire department engine

roadway turn-around with a minimum radius of 36 feet outside and 23 feet inside unless otherwise approved in writing by the Fire Marshal. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-de-sac diameters shall be no less than 72 feet. (UFC 902.2.2.4)

R. **Emergency Gate/Access Gate Requirements.** Open gates shall not obstruct any portion of the required access roadway or driveway width. If provided, all locks shall be fire department approved. Installations shall conform with Fire Department Standard Details and Specifications G-1. (UFC 902.2.4.1)

S. **Fire Lane Marking Required.** Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and Fire Department Standard Details and Specifications A-6. (UFC 901.4.2)

T. **Parking Along Roadways.** The required width of fire access roadways shall not be obstructed in any manner. Parking shall not be allowed along roadways less than 28 feet in width. Parking ~~shall not~~ be allowed along one side of the street for roadways 28-35 feet in width. For roadways equal to or greater than 36 feet, parking will be allowed on both sides of the roadway. Roadway widths shall be measured face to face of curb. Parking spaces are based on an 8 foot wide space. (UFC 902.2.4.1)

U. **Required Plans and Permits.** Plans for fire apparatus access roads and fire hydrant systems shall be submitted to the Fire Department for review and approval prior to construction. Permits are required for the installation of all Private Water Supply, Tank, and Hydrant systems and must be issued to contractors prior to the start of installation of such systems. (UFC 901.2.2.1, 902.2.2)

V. **Required Access to Water Supply Hydrants.** Unless otherwise approved in writing by the Fire Marshal prior the issuance of building permit, Portions of the structure(s) are greater than 150 feet of travel distance from the centerline of the roadway containing public fire hydrants. Provide an on-site fire hydrant OR provide an approved residential fire sprinkler system throughout all portions of the building. (UFC 903.2)

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<p>W. <u>Required Access to Buildings.</u> Portions of the structure(s) are greater than 150 feet of travel distance along an accessible travel path from an approved fire apparatus access roadway or driveway. Provide an approved fire apparatus access roadway or driveway/driveway and approved turn-around OR provide an approved type residential fire sprinkler system throughout all portions of the building. (UFC 902.2.1, 902.2.4)</p>	<p><input checked="" type="checkbox"/> CC.</p>	<p>Timing of Required Roadway/Driveway Installations. Prior to the commencement of combustible construction, the required access roads, roadway/driveway installations, up through first lift of asphalt, shall be in place, inspected, and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials shall not be delivered to the construction site until installations are completed as stated above. During construction, emergency access roads shall be maintained clear and unimpeded. Issuance of building permits may be withheld until installations are completed. (UFC 901.3) Temporary access roads may be approved on a case by case basis.</p>
<p>Y. <u>Fire Apparatus (Engine) Access Driveway Required.</u> Provide an access driveway with a paved all weather surface and a minimum unobstructed width of _____ feet, vertical clearance of _____ feet, 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform to Fire Department Standard Details and Specifications D-1. (UFC 902.2.2)</p>	<p><input checked="" type="checkbox"/> X.</p>	<p>DD. <u>Flagged Lots.</u> Flagged lots shall conform with all access and water supply requirements in accordance with Fire Code Article 9. Contract Fire Department for applicable means of compliance. (District Policy)</p>
<p>Z. <u>Fire Department (Engine) Driveway Turn-around Required.</u> Provide an approved fire department engine driveway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications D-1. (UFC 902.2.2.4)</p>	<p></p>	<p>EE. <u>Timing of Required Driveway Installations.</u> Prior to the commencement of combustible construction the required driveway installations shall be in place, inspected, and accepted by the Fire Department unless otherwise approved in writing by the Fire Marshal. Bulk combustible construction materials may not be delivered to the construction site until installations are completed as stated above. Clearance for building permits also may be held until installations are completed. (UFC 901.3)</p>
<p>AA. <u>Location of Required Fire Protection System(s) Equipment.</u> Location of Fire Hydrants, Fire Sprinkler System(s) Post Indicator Valves (PIV), Fire Department Connections (FDC) and Fire Alarm Equipment shall be coordinated with the Fire Department and the Project Planners. (UFC 1001.7.1, 1008.1)</p>	<p><input checked="" type="checkbox"/> FF.</p>	<p><u>Fire Apparatus (Ladder Truck) Access Roads Required.</u> Provide access roadways with a paved all weather surface and a minimum unobstructed width of 30 feet, vertical clearance of 13 feet, 6 inches, minimum circulating turning radius of _____ feet outside and _____ feet inside, a maximum slope of 10% and vehicle loading of _____,000 pounds. (UFC 902.2.2.1)</p>
<p>BB. <u>Access to Buildings/Landscaping Requirements.</u> Landscaping shall not obstruct Fire Department ladder access to buildings. Building Permit submittals shall include a landscape drawing which reflects the location of all landscaping. The plan shall</p>	<p><input checked="" type="checkbox"/> GG.</p>	<p><u>Fire Ladder Truck Set Up Area(s) Option.</u> Provide Fire Department Ladder Truck Set Up Areas with a minimum</p>

STANDARD CONDITIONS

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unobstructed width of 30 feet and minimum length of 60 feet.
Area shall support 75,000 pounds of gross vehicle weight.
Area shall be paved or other engineered surfaces may be used
with Fire Department approval. (UFC 902.2.2.1)

HH. Secondary Access Required. Provide a secondary access point.
Installation and Design of Secondary Access shall conform to
Fire Department Standard Details and Specifications A-4.
(UFC 902.2.1)

II. Bridges (Driveways). The bridge shall be designed for a live
load of 40,000 pounds as stated in Fire Department Standard
Details and Specifications D-1 and in accordance with Article
90 of the Fire Code. (UFC 902.2.2.5)

JI. Premises Identification. Approved numbers or addresses shall
be placed on all new and existing buildings in such a position
as to be plainly visible and legible from the street or road
framing the property. Numbers shall contrast with their
background and be a minimum of four inches in height. (UFC
901.4.4)

KK. Building Code Review. Building Code review will be
conducted upon receipt of a plans submittal and Building
Permit Application from the local building department having
jurisdiction.

LL. Hazardous Materials Compliance Review. Hazardous
Materials Compliance review is not completed in the
Development Review Process. Questions regarding Hazardous
Materials may be directed to (408)378-4010 ext. 20.

MM. Review of Street Improvement Plans for

Approved or Disapproved (as applicable). State reason for
disapproval.

NN. The proposal presented under this application is acceptable to
the Fire Department. Prior to performing any grading,
demolition, construction or building modifications, the
applicant shall make an application to, and obtain from the
Building and Fire Department all necessary permits. The
requirements or conditions, if stated above, shall be
incorporated into the project drawings submitted for Building
and Fire Department review.

OO. No Fire Department Requirements or Conditions. For the
application submitted. Subsequent submittals will be reviewed
for Fire Department compliance upon receipt.

PP. Preliminary Review Only. The requirements and conditions
stated in this review are preliminary and are intended to be
used for the purposes of project planning. An official Fire
Department review of the project will be conducted upon
receipt of a complete Building Permit Application and Plan
Submittal that clearly shows all intended grading, demolition,
construction or building modifications.

QQ. To prevent plan review and inspection delays, the Fire
Department Developmental Review Conditions contained
within this standard conditions checklist shall be restated as
“notes” on all pending and future plan submittals, and any
referenced diagrams shall be reproduced onto the future plan
submittal.

POLICE DEPARTMENTXX. SITE DEVELOPMENT A.

The applicant shall comply with applicable provisions of the City's building security ordinance. Exterior lighting shall comply with criteria specified in the Design Review Ordinance. (MHM^C 18.74.370)

B. The common main entrance door to a multi-family residential building shall be coupled with a voice intercom and electric door controls for each living unit to monitor control of visitor access to the building's interior. There shall be no master keying of residential units.

C. On directories used in a multiple family dwelling, the residents listed shall be by alphabetical listing only and shall not correspond to numbering of dwelling unit. (MHM^C 15.40.410)

D. Where electronic security gates are provided to a development, a voice intercom or phone and electric gate control shall be provided. Gate location shall be designed to provide adequate area for turn around of vehicles.

resistant glasslike material or secured on the inside with the following protective devices:

- Iron bars of at least one-half (1/2)inch round or one (1) inch x one-quarter (1/4) inch flat steel material no more than five (5) inches apart and securely fastened; or
- Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches secured with non-removable type screws. (MHM^C 15.40.250)

All hatchway openings shall be secured with the following protective devices:

- If the hatchway is of wooden material, it shall be covered on the inside with at least sixteen (16) gauge sheet steel, or its equivalent, attached with screws.

The hatchway shall be secured from the outside with a slide bar or slide bolt with a minimum of one (1) inch throw. The use of a crossbar or padlock must be approved by the Fire Department.

Outside hinges on all hatchway openings shall be provided with non-removable pins using pin-type hinges. (MHM^C 15.40.280)

All air duct or air vent openings exceeding eight (8) inches x twelve (12) inches on the roof or exterior walls of any building shall be secured by covering the same with either of the following:

- Iron bars of at least one-half (1/2)inch round or one (1) inch x one-quarter (1/4) inch flat steel material, spaced no more than five (5) inches apart and securely fastened; or

Iron or steel grills of at least one-eighth (1/8) inch thickness with mesh not to exceed two (2) inches and secured with non-removable type screws.

If the barrier is on the outside, it shall be secured with galvanized round-head through bolts of at least three-eighths (3/8) inch diameter on the outside. (MHM^C 15.40.290)

XXI. BUILDING DESIGN A.

Building shall be pre-wired to provide a hard wire burglar alarm system. This shall include any windows or doors at ground level and including any windows capable of being reached without ladders from the building's exterior. The wire shall be laid in conduit. This condition does not include the actual alarm system, but only the pre-wiring for desired hookup at a later date.

B. All exterior transoms, glass skylights, and other openings of glass which are accessible from any surface on the premises shall be constructed of burglary-resistant glass or equally

PACIFIC GAS & ELECTRIC (PG&E)

XXII. UTILITY ACCESS

- A. Development plans shall provide for unrestricted utility access and avoid encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities. Examples of activities which could have an impact on PG&E facilities include permanent/temporary changes in grade over or under the facilities; construction of structures within or adjacent to PG&E easements; and planting of certain types of vegetation over or underneath gas and electric facilities respectively. Developers shall be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate the proposed development (PG&E).

XXIII. OTHER CONDITIONS:

(see next page)

STANDARD CONDITIONS
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XXIII. OTHER CONDITIONS:

1. Applicant shall install new curb and gutters along Monterey Road at property frontage (PW).
Applicant shall install standard city accessible ramp at the corner of Monterey Road and Cochrane Road at property frontage (PW).
Applicant shall install median on Cochrane Road from Monterey Road to Cochrane Circle (PW).
2. Applicant shall satisfy all Measure C commitments per MC-04-22 of the project (PW).
3. Future plans submittals shall identify Low, Median and Moderate rate units on site plan, floor plans and building elevations (HOUSING).
4. Fire Department comments apply only to Phase One (townhouses and clubhouse) (FIRE).
5. A fire sprinkler system is required throughout all portions of the clubhouse only. Revise drawings in writing to reflect compliance with this requirement. A State of California licensed fire protection contractor shall submit plans, calculations, a completed permit application and appropriate fees to the Fire Department for review and approval prior to beginning their work (FIRE).
6. Prior to installation, a copy of the Fire Department "approved" underground fire service drawings shall be provided to the Morgan Hill Public Works Department for record purposes. To prevent engineering delays, the underground contractor shall submit to the Fire Department three sets of shop drawings designed per NFPA Std. #24, a completed permit application, and applicable fees for review and approval (FIRE).
7. Developer shall contact the Morgan Hill Post Office for type and placement of centralized delivery (POST OFFICE).
8. VTA provides bus service and maintains a bus stop along Cochrane Road adjacent to the project site. In order to provide convenient access for transit service, VTA recommends that the City condition the developer to maintain the bus stop at its current location and provide the following bus stop improvements (SCVTA):
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.

- a. Provide a 10' x 5' PCC bus stop pavement pad (starting from 23 feet west of the existing pedestrian crosswalk and extending 55 feet in the westerly direction) per VTA standards (see attached).
- b. Provide an eight-foot sidewalk directly adjacent to the bus stop and additional standard city sidewalks on Monterey Road, Cochrane Road, Jarvis Drive, and all internal streets.
- c. Provide a streetlight adjacent to the bus stop.
- The site is located within the West Little Llagas Creek watershed. Federal Emergency Management Agency maps show the site is within Zone X – an area subject to less than one foot of flooding in the event of a one percent flood. The first floor of any structure shall be above the one percent water surface elevation (SCVWD).
- As the construction on the site will include disturbance of more than one acre, the developer shall file a Notice of Intent with the State Water Resources Control Board in compliance with the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated With Construction Activity. The developer shall also prepare a storm water pollution prevention plan and provide measures that will be included with any proposed project to reduce the introduction of pollutants into storm water runoff (SCVWD).
- Post-construction water quality mitigation shall be implemented for any proposed development. The design of the site shall incorporate water quality mitigation measures such as those found in "Start at the Source, Design Guidance Manual for Stormwater Quality Protection," prepared for the Bay Area Stormwater Management Agencies Association (SCVWD).
- In accordance with District Ordinance 90-1, the owner shall show any existing wells on the plans. The wells shall be properly registered with the District and either be maintained or abandoned in accordance with District standards (SCVWD).

(End)

RESOLUTION NO. 06-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL OF DEVELOPMENT AGREEMENT
APPLICATION DA-05-13: JARVIS – SOUTH VALLEY
DEVELOPERS FOR APPLICATION MC-04-22: JARVIS –
SOUTH VALLEY DEVELOPERS (APNs 726-25-076 & -077)**

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 79 building allotments for application MC-04-22: Jarvis – South Valley Developers; and

WHEREAS, said development agreement request was considered by the Planning Commission at their regular meeting of August 8, 2006, at which time the Planning Commission recommended approval of development agreement application, DA-05-13: Jarvis – South Valley Developers.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT. The Planning Commission hereby recommends to the City Council, adoption of the Development Agreement for MC-04-22: Jarvis – South Valley Developers attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2006, AT A REGULAR MEETING
OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT A

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 6103

Recorded at the request of
and when recorded mail to:

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037

RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of _____, 2006, by and between SOUTH VALLEY DEVELOPERS, under the Agreement, ("Property Owner") and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements as contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On _____, 2006, the City Council of the City of Morgan Hill adopted Ordinance No. _____, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on _____, 2006.

NOW, THEREFORE, the parties agree:

1. Definitions. In this Agreement, unless the context otherwise requires:

(a) "City" is the City of Morgan Hill.

(b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.

(c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.

(d) "Real Property" is the real property referred to in Paragraph 3 below.

2. Exhibits. The following documents are referred to in this Agreement, attached and made a part by this reference:

Exhibit "A" - Development Allotment Evaluation

Exhibit "B" - Development Review and Approval Schedule

Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. Description of Real Property. The real property which is subject to this Agreement is described in Exhibit "C".

4. Interest of Property Owner. Property Owner represents that he has a legal or equitable interest in the real property.

5. Assignment. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon

any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. Relationship of Parties. Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On March 1, 2005, the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MC-04-22: Jarvis - South Valley Developers, on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of 79 condominium and townhome units as approved by the City of Morgan Hill Planning Commission.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or

alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Multi-Family Medium and zoning classification of R3/PUD, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

- (a) Permitted uses of the property are limited to the following:

The Tentative map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

- (b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative map and Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

- (c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

- (d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

- (e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

- (f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural Review Process.

- (g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

- (h) Property Owner agrees to include the following School features in the development:

- (i) Property Owner agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.

- (ii) Applicant will provide off-site safety improvements valued at \$3,300 per unit based on the Safe Walking Route to School Study: full street improvements on Monterey Road south to Central High School including curb, gutter, and sidewalk to tie into the existing sidewalk at Central High School, or any other improvements equal to \$3,300 per unit to be determined by the MHUSD.

(i) Property Owner agrees to include the following **Open Space** improvements in the development:

- (i) Applicant will provide open space buffers that are 10 ft in excess of code requirements along the Cochrane Road, Monterey Road and Butterfield Boulevard frontages.
- (ii) All parks and open space within the project will be maintained by a neighborhood homeowners association.
- (iii) Project provides a 7 ft. wide (minimum), paved (or other durable surface) bicycle and pedestrian pathway within the landscaped area. The bicycle and pedestrian path shall be within an open space area which is a minimum of 20 ft. wide with an average width of 30 ft. (for the entire length of the path).
- (iv) Project will provide a Commemorative Bell and Narrative Plaque near the Monterey Road frontage noting the project's proximity to the El Camino Real. The historical markers shall be installed prior to issuance of a Certificate of Occupancy for the 79th unit.
- (v) Property Owner agrees to purchase two (2) transferable development credits (TDCs) for every 25 dwelling units, subject to this development potential transfer mechanism. Based on 79 allotments, the purchase of 6.32 TDCs is required. Payment of the 6.32 TDCs shall be provided in the form of an in-lieu open space fee in an amount satisfactory to the City Council, and shall be collected on a per unit basis at time of building permit issuance. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

(j) Property Owner agrees to include the following **Public Facility** features in the development:

- (i) Applicant will grid water main from Butterfield Boulevard through Jarvis Drive to Monterey Road.
- (ii) The project drainage shall be consistent with the City's storm drain system and Master Plan.
- (iii) Project storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the Director of Public Works.
- (iv) Applicant will contribute \$1,100 per unit to the off-site storm drain improvement fund in addition to payment of standard fees.

(v) Applicant will provide public facility improvements as listed below in excess of standard requirements. The total cost of the below listed work shall be \$4,400 per unit:

- Contribute towards a portion of the Sanitary Sewer Lift Station at Cochrane Road.
- Install forced main for lift station from Monterey Road to Butterfield Boulevard.
- Improve Monterey Road on the east side to full width from Cochrane Road north to Burnett Avenue, including undergrounding of overhead utility lines.
- Raise Tilton Avenue at Monterey Road.

(vi) Applicant will contribute \$1,100 per unit to the Capital Improvements Program Fund.

(k) The Property Owner agrees to provide the following Park and Recreation improvements:

(i) In addition to payment of standard park fees, applicant will pay in-lieu park fees of \$3,300 per unit.

(ii) The park area provided within the project shall exceed the dedicated land requirements stated in Chapter 17.28 of the Morgan Hill Municipal Code by 31%.

(iii) Applicant will comply with Bikeways Master Plan and construct bike facilities per the Bikeways Master Plan at \$2,200 per unit in the following locations:

- Cochrane Road from Monterey Road to Sutter Boulevard.
- Monterey Road from Central High School to Cochrane Road.
- Monterey Road from Cochrane Road to Burnett Avenue.

(iv) Each project phase shall provide the following park amenities within the proposed park areas:

- Phase I: (34 units; FY 06-07)

Tot lot (min. 3 activities)
Bocce Ball Court
Basketball Court (2 hoops)
Open space turf areas
Passive recreation area
Water Feature (i.e. fountain) within open space area

- Phase II: (43 units; FYs 07-08, 08-09, 09-10)

Swimming Pool
Child wading pool
Restroom area

Recreation Hall
Exercise Room
Shade trellis area
Water Feature (i.e. fountain) at corner of Cochrane/Monterey
Tree grove
Benches
Barbeque area

(l) Property Owner agrees to include the following Housing Types & Housing Needs in the development:

(i) Based on the overall 134 units to be constructed by South Valley Developers in the Madrone Plaza project, five percent shall be low income (7 units) and eight percent shall be median income (11 units). Based on the current 79 allotments for FYs 06-07, 07-08, 08-09 and 09-10, **four** units shall be low income and **six** units shall be median income. The remaining eight below market rate (BMR) units shall be provided in future phases. For the current allotments, the Project shall provide the 10 for sale BMR units as follows:

- FY 06-07 (34 allotments): 4 BMR units
 - Low income: 2 units
 - Median income: 2 units
- FY 07-08 (13 allotments): 2 BMR units
 - Low income: 1 unit
 - Median income: 1 unit
- FY 06-07 (15 allotments): 2 BMR units
 - Low income: 1 unit
 - Median income: 1 unit
- FY 06-07 (15 allotments): 2 BMR units
 - Median income: 2 units

(ii) The following unit types shall be provided for the 10, for sale BMR units:

- Low Income: 4 BMRs
 - One, 3 bdrm, 2 baths, approx. 1275 sf
 - One, 2 bdrm, 2 baths, approx. 1050 sf
 - Two, 1 bdrm, 2 baths, approx. 930 sf
- Median Income: 6 BMRs
 - Two, 3 bdrm, 2 baths, approx. 1275 sf
 - Three, 2 bdrm, 2 baths, approx. 1050 sf
 - One, 1 bdrm, 2 baths, approx. 930 sf

(iii) The BMR units shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. For the

FY 06-07 allotments, the four BMR units shall be under construction and the framing inspection passed (as defined in the UBC) prior to the issuance of the 30th building permit. For FYs 07-08, 08-09 and 09-10, the BMR units required in each fiscal year shall be under construction and the framing inspection passed prior to the issuance of the 10th building permit for each respective fiscal year.

(iv) Over and above the BMR units, the project will provide 10 percent of its units as moderate rate non-restricted units. Based on the overall 134 units to be constructed by South Valley Developers in the Madrone Plaza project, 14 moderate units shall be provided. Based on the current 79 allotments for FYs 06-07, 07-08, 08-09 and 09-10, eight moderate rate units shall be provided. The remaining six moderate rate units shall be provided in future phases. For the current allotments, the Project shall provide the eight for sale, moderate rate units as follows:

- FY 06-07 (34 allotments): 3 moderate units
- FY 07-08 (13 allotments): 1 moderate unit
- FY 06-07 (15 allotments): 2 moderate units
- FY 06-07 (15 allotments): 2 moderate units

(v) Of the eight moderate rate units, a mixture of one, two and three bedroom units shall be provided, and each unit shall have a minimum of two bathrooms.

(vi) Below Market Rate (BMR) purchasers shall be treated in the same manner as purchasers of non-BMR units. Developer, including Developer's company, employees, and/or agents) agrees to assist BMR purchasers with all phases of the sales transaction, including, but not limited to, the preparation of any and all documents necessary to complete the sale and representation by a licensed real estate agent/broker.

(vii) Property Owner will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes.

(viii) Property Owner will provide the same level of customer service to the BMR buyer as the market rate buyer.

(ix) The Below Market Rate (BMR) Program Guidelines are hereby incorporated herein in full by this reference.

(x) All BMRs will be processed using the guidelines, requirements, and pricing in effect at the time they are released for sale."

(xi) Exterior trim entry door hardware, and finish to the same standard as the Market Rate.

(xii) Minimum standards for equipment, fixtures, appliances and

finishes have been established for the BMR units. All items installed shall be of good quality. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home.

(xiii) Minimum Interior standard finishes will be as follows:

- All closets shall have doors
- Interior doors to be raised panel type or same as market rate
- Door hardware to be brass finish or the equivalent
- Appliances shall be major brand name
- Microwave with an exhaust vent shall be installed over the range.
- Kitchen counters shall be white ceramic tile
- Kitchen cabinets shall be stained wood with white melamine interiors
- Units will be roughed in for AC including electrical and line set.
- Basic alarm system to secure all accessible openings to the home
- Carpet in bedrooms, hallways, family rooms
- Linoleum or tile in entry, bathrooms kitchens
- Laminate flooring may be substituted for carpet or linoleum
- Electric garage door opener

(m) Property Owner agrees to include the following **Quality of Construction** features in the development:

(i) All homes will have EPA "Energy Star" labeled windows with low-e coatings and vinyl or metal frames.

(ii) For at least 60% of units, provides two separately zoned high-efficiency heating systems in units over 3000 square feet and units less than 3000 square feet whose floor plans allow effective dual-zoning. A high efficiency gas furnace of 90 percent efficiency rating or greater will also be installed in all dwelling units.

(iii) Solar power generation for clubhouse electricity and solar heat for the pool/jacuzzi facility at the clubhouse.

(iv) Recirculating hot water system with demand pumping.

(v) Water recycling system and/or well facility to provide an alternate water source for landscape irrigation.

- (vi) Installation of cast-iron drainage pipe and piping insulation between floors for sound reduction of plumbing.
- (vii) Installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT5R or equivalent for telephone lines.
- (viii) Class A roof covering.
- (ix) Glued and screwed sub-floors, insulation of interior walls for sound.
- (x) Tyvek "Double Barrier" system with a 60 minute Grade "D" stucco paper under exterior finishes for an impenetrable waterproof barrier.
- (xi) All windows will be flashed with a two part process, including a layer of bituthane over the top of windows to be leak proof.
- (xii) Use of porches, balconies and courtyards throughout project and along street frontages.
- (xiii) Use at least two different roof lines and three different roof pitches throughout the project.
- (xiv) Project provides consistent level of architectural relief and detailing on all four building elevations. Each standard trim and base color must represent no more than 15 percent of the project.
- (xv) Provides increased setbacks and sound insulation board.

(n) The Property Owner agrees to provide the following **Circulation** improvements:

- (i) Provide full street improvements on the west side of Monterey Road from the Old Monterey Road intersection south to the existing sidewalk at the Overland Storage business. The improvements will include curb, gutter, and sidewalk.
- (ii) Applicant will extend Jarvis Drive to its full width from Monterey Road to Butterfield Boulevard.
- (iii) Applicant will provide a fully signalized intersection at Cochrane Circle into Madrone Plaza and the Cochrane Village apartment project; a stub to the existing apartment complex to allow the complex to have direct access to the Cochrane Circle intersection, and eliminate the existing driveway access from the Cochrane Village apartments.

(iv) Applicant will provide for Dedication and Improvements as listed below. Total cost of the below listed work shall be \$2,200 per unit.

- Provide dedication of right-of-way for the East Dunne Avenue and Murphy Avenue intersection with full street improvements along the Busk property on East Dunne Avenue and Murphy Avenue.
- Provide full street improvements on Monterey Road on the east side from Cochrane Road north to Burnett Avenue with curb, gutter, and sidewalk (a distance of 0.8 miles). This will include right-of-way dedication from California Salvage on Monterey north of Madrone Parkway.

(v) Applicant will provide landscape islands and entry monuments at all access points to the project.

(o) The Property Owner agrees to provide the following **Safety and Security** improvements:

(i) Provides fire escape ladders for upper floor bedrooms and one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, and one additional extinguisher for each additional 1,500 square feet of floor space or fraction thereof.

(ii) Provides a first aid kit with a poison control document to be installed in the kitchen area of each unit.

(iii) Provide outdoor lighting to meet all police department specifications.

(iv) Install illuminated address numbers for each unit and painted reflective curb numbers where possible.

(v) Noncombustible siding is used on at least 75 percent of the total units and comprises at least 50 percent of the siding of an individual unit.

(vi) Provides residential fire sprinkler systems according to NFPA Chapter 13D specifications.

(vii) Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management.

(viii) Hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices is to be located per manufacturer's requirement with at least one detector per floor of each residence.

(ix) The developer shall include provisions in the Convents, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police

Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development.

(p) The Property Owner agrees to provide the following Landscaping improvements:

- (i) Twenty-four inch box-size trees from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees.
- (ii) Sufficient planting shall be provided around all necessary and appropriate group parking to achieve shading and visual screening as viewed from the public street.
- (iii) Varied landscaping along project frontages and in front of buildings interior to the project to be installed by the developer.
- (iv) Deciduous trees will be planted along the south facing side of homes or buildings.
- (v) All street trees are twenty-four inch box trees from the city approved list.
- (vi) Based on the size of the townhome lots proposed by the project, it is infeasible to provide two street trees per lot, three per corner lot, in accordance with the Measure C commitment. As an alternate commitment, the City shall determine the number of required trees based on the number of single-family lots that could be accommodated on-site. The number of trees provided within the project shall be equivalent to two trees per single-family lot, three trees per single-family corner lot.
- (vii) Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks.
- (viii) Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn, and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs, and groundcover cannot be combined under one valve, a separate valve for trees shall be provided, resulting in a minimum of four separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation.

(ix) The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item.

(x) For at least 75% of all plant material, uses water conserving plants contained on the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide.

(xi) Applicant shall use a separate water source (e.g., well, import or recycled water) to irrigate project landscaping.

(xii) Landscaping shall be installed on all areas visible from public and private rights-of-way.

(q) The Property Owner agrees to provide the following **Natural and Environmental** improvements:

(i) Minimal grading is required which is considered a fill or excavation of less than two feet in depth (three feet is acceptable for detention ponds).

(ii) Dry wall is source separated and recycled.

(iii) Wood waste is source separated for recycling or composting.

(r) The Property Owner agrees to provide the following **Livable Community** improvements:

(i) Provides low-maintenance on-site walkways and on-site bike paths throughout the development. Installation of city standard sidewalks, or pathways which are redundant of city standard sidewalks do not fulfill this requirement.

(ii) Applicant will provide bus pad and passenger waiting area along north side of Cochrane Road, just west of Butterfield Boulevard.

(iii) Applicant will provide sidewalks at various locations at \$1,100 per unit as listed below:

- On Cochrane Road from Butterfield Boulevard to Marie Callender's Restaurant to replace the existing temporary AC pathway.
- Monterey Road from Cochrane Road to Burnett Avenue on the east side of the street.
- Monterey Road to Central High School on the west side of the street.

- Monterey Road from Old Monterey Road on the west side to provide sidewalks to Britton Middle School.

(s) The Property Owner shall record constructive notice on the Final Parcel Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(t) The project shall provide the following information, by address for each unit, to the Community Development Department:

- (i) Date of sale
- (ii) The number of bedrooms
- (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraph 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement,

the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
 - (ii) Damages for lost profits;
 - (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill: Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

With a copy to: City Clerk
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Property Owner: Scott Schilling
South Valley Developers
16060 Caputo Drive, Suite 160
Morgan Hill, CA 95037

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes therefor, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

- (a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.
- (b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.
- (c) This writing contains in full, the final and exclusive Agreement between the parties.
- (d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:

CITY OF MORGAN HILL

JANET KERN
City Attorney

J. EDWARD TEWES, City Manager

Attest:

IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT "A"

DEVELOPMENT ALLOTMENT EVALUATION

MC-04-22: Jarvis – South Valley Developers

(See Entire Documents on File in the
Community Development Department - City Hall)
CITY OF MORGAN HILL

EXHIBIT "B"

DEVELOPMENT SCHEDULE MP-04-22: Jarvis – South Valley Developers
FY 06-07 (36 allocations)/FY 07-08 (13 allocations)/
FY 08-09 (15 allocations)/FY 09-10 (15 allocations)

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed: 11-02-05

II. SITE REVIEW APPLICATION

Application Filed: 09-01-06

III. FINAL MAP SUBMITTAL

Map, Improvements Agreement and Bonds:

FY 2006-07 (36 units)	10-31-06
FY 2007-08 (13 units)	07-30-07
FY 2008-09 (15 units)	07-30-08
FY 2009-10 (15 units)	07-30-09

IV. BUILDING PERMIT SUBMITTAL

Submit plans to Building Division for plan check:

FY 2006-07 (36 units)	01-02-07
FY 2007-08 (13 units)	08-15-07
FY 2008-09 (15 units)	08-15-08
FY 2009-10 (15 units)	08-15-09

V. BUILDING PERMITS

Obtain Building Permits:

FY 2006-07 (36 units)	03-31-07
FY 2007-08 (13 units)	09-30-07
FY 2008-09 (15 units)	09-30-08
FY 2009-10 (15 units)	09-30-09

Commence Construction:

FY 2006-07 (36 units)	06-30-07
FY 2007-08 (13 units)	04-30-08
FY 2008-09 (15 units)	04-30-09
FY 2009-10 (15 units)	04-30-10

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit two (2) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 40 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "C"

LEGAL DESCRIPTION

MC-04-22: Jarvis – South Valley Developers

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

All that certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, being more particularly described as follows:

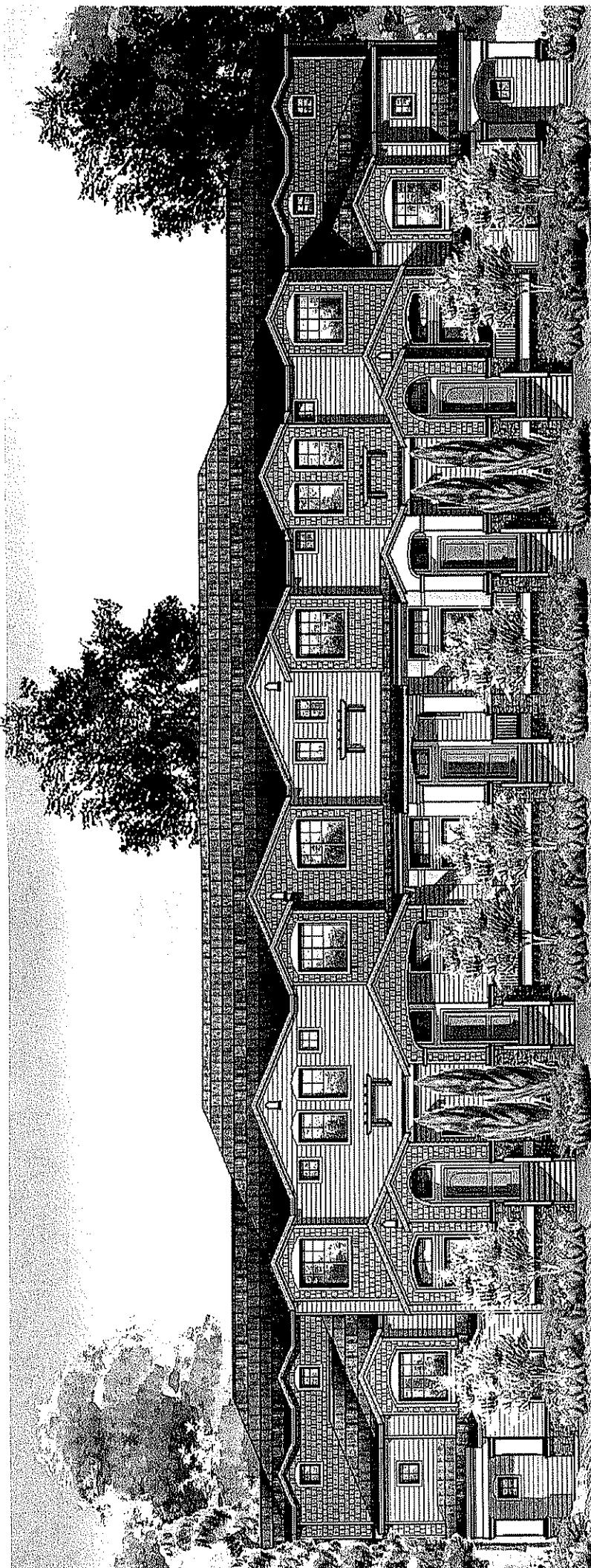
Parcel One:

All of Parcels 1 and 2, as said parcel is shown upon that certain Parcel Map "Being a subdivision of Parcel 9 as shown on that certain Parcel Map filed in Book 743 of Maps at Page 3 – 6 Santa Clara County Records...", which map was filed for record on May 29, 2002 in Book 749 of Maps at Pages 6 and 7.

Parcel Two:

A non-exclusive easement for the installation and maintenance of a sewer pipe line and any other utilities such as water, electricity and gas over a strip of land twenty (20) feet in width, the Southeasterly line of which is described as follows:

Beginning on the Northeasterly line of Monterey Road as Established by Parcel No. 3 in Deed to State of California recorded August 31, 1938 in Book 893 Official Records, page 167, at the most Westerly corner of land described in the Deed to Albert Gurries, et ux, recorded August 15, 1956 in Book 3579 Official Records, page 15; Thence North 57 deg. 14' East along the Northwestery line of said property to Gurries, 329.63 feet to the Southwesterly line of 5.30 acre tract described in the Deed to Southern Pacific Railroad Company recorded September 12, 1868 in Book 9 of Deeds, page 626.



FRONT ELEVATION

7-PLEX TOWN HOME

MADRONE PLAZA
MORGAN HILL, CA

South Valley Developers

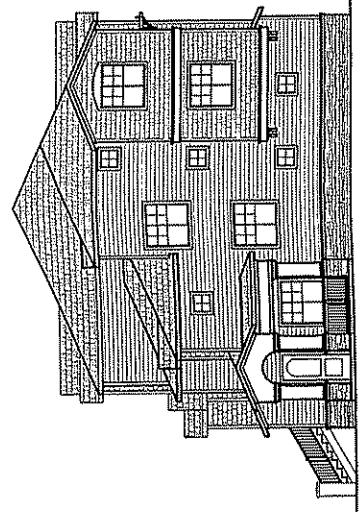
EDI ARCHITECTURE, INC.
TEXAS CALIFORNIA NEW YORK
450 Sutter St., 2nd Fl.
San Francisco, CA 94111-3310
Phone: (415) 562-2880
www.Ediarchitects.com

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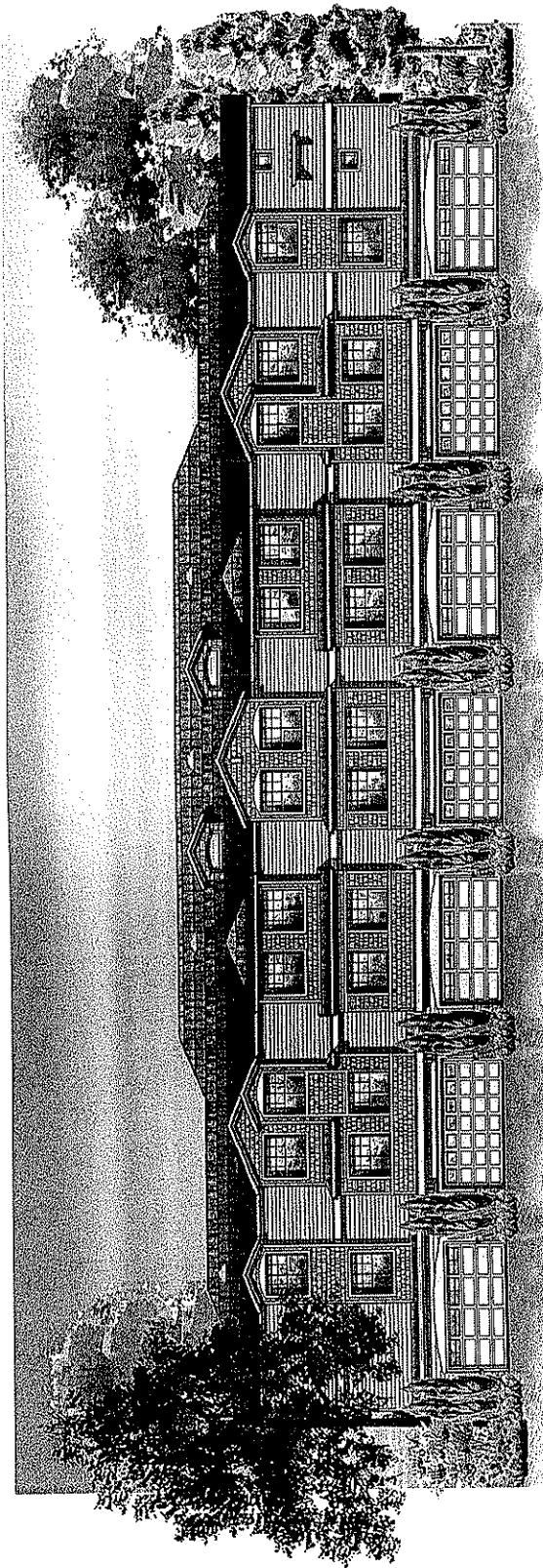
MADRONE PLAZA
SCALE: 3/32" = 1'-0"
0' 2' 4' 8'

051
OCTOBER 21

SOUTH VALLEY DEVELOPERS



SIDE ELEVATION



REAR ELEVATION

7-PLEX TOWN HOME

MADRONE PLAZA
MORGAN HILL, CA

South Valley Developers

EDI ARCHITECTURE, INC.
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OCTOBER 28, 2005



SOUTH VALLEY DEVELOPERS

SOUTH VALLEY DEVELOPERS

05100.000
OCTOBER 26, 2005



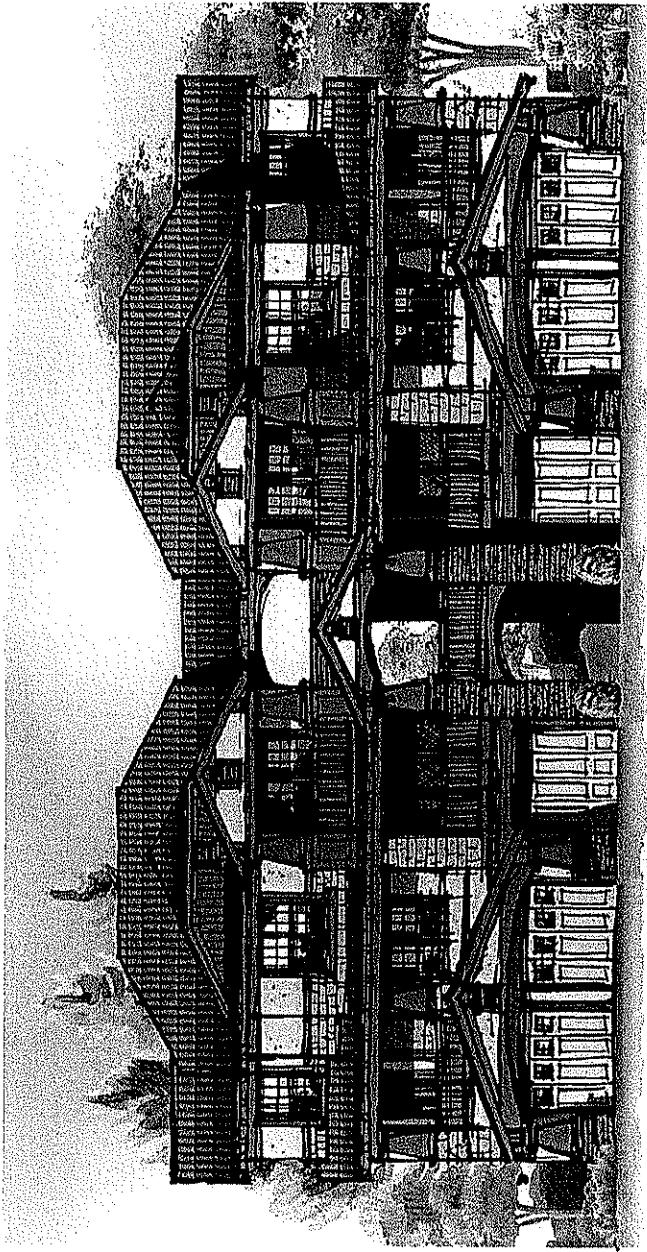
0 2' 4' 6'
SCALE: 3/32" = 1'-0"

MADRONE PLAZA MORGAN HILL, CA

South Valley Developers

10-PLEX CONDOMINIUM

FRONT ELEVATION



EDI ARCHITECTURE, INC.
NEW YORK
CALIFORNIA
TEXAS

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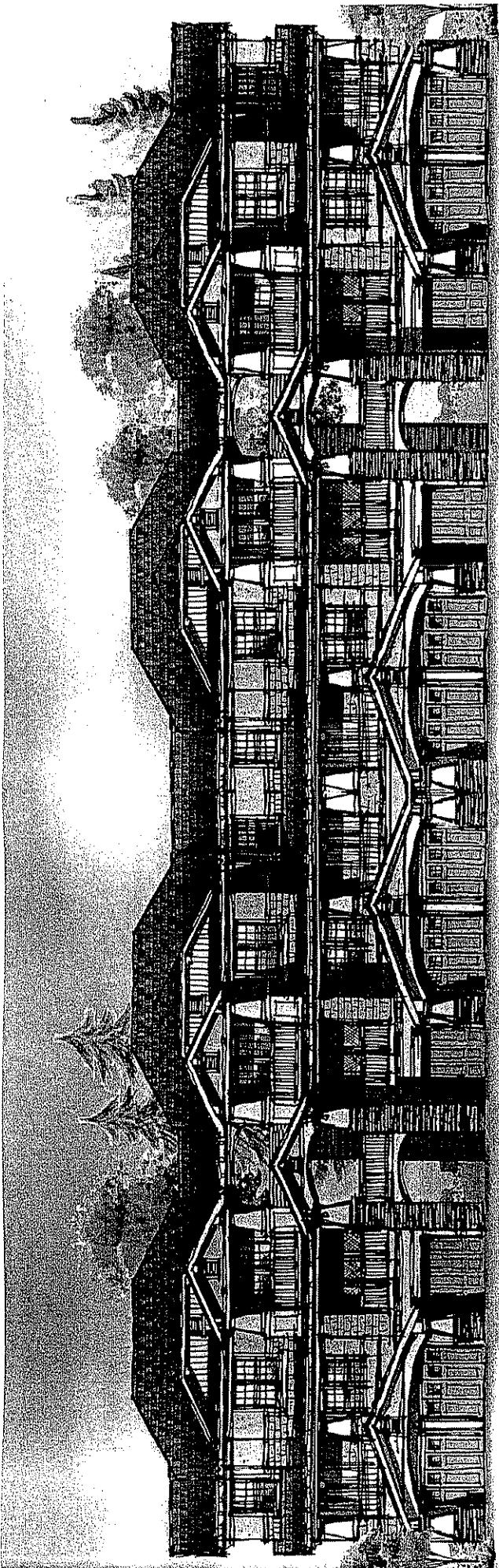
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SOUTH VALLEY DEVELOPERS



FRONT ELEVATION

20-PLEX CONDOMINIUM

MADRONE PLAZA
MORGAN HILL, CA

South Valley Developers

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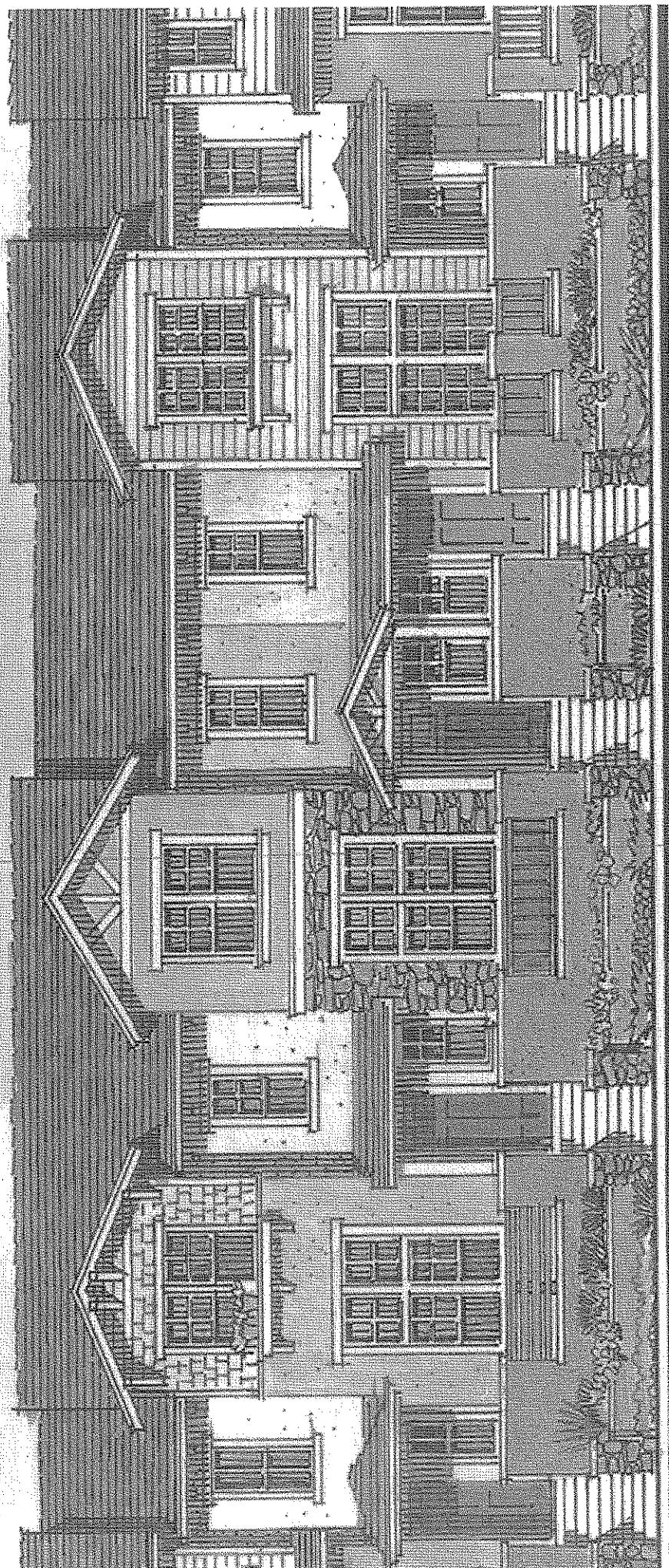


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OCTOBER 26, 2005

SOUTH COUNTY HOUSING - TOWNHOMES



SOUTH COUNTY HOUSING - MODIFIED SETBACK DWELLING

